

## **TITLE 14**

### **STORM WATER**

#### **Chapters:**

- 14.04 Storm Water Utility**
- 14.08 Illegal Discharges and Illicit Connections**
- 14.10 Construction Site Erosion Control**
- 14.12 Post-Construction Storm Water Management**

**(Note: Title 14 was created 12/11/06, Ordinance 12C-06)**

## Chapter 14.04

### STORM WATER UTILITY

#### Sections:

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#### **14.04.010 Findings.**

The City of Altoona finds that the management of storm water and other surface water discharges within and beyond the City of Altoona is a matter that affects the health, safety and welfare of the City, its citizens and businesses, and others in the surrounding area. Failure to effectively manage storm water affects the sanitary sewer utility operations of the City by, among other things, increasing infiltration to the sanitary sewer. In addition, surface water runoff creates erosion of lands, damages businesses and residences, and creates sedimentation and other environmental damage in the City of Altoona. In order to protect the health, safety and welfare of the public, the City of Altoona is exercising its authority to establish a Storm Water Utility.

#### **14.04.020 Authority.**

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

#### **14.04.030 Interpretation.**

In their interpretation and application, the provisions of this Ordinance shall be interpreted liberally to secure the ends sought hereby and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

#### **14.04.040 Severability of Ordinance Provisions.**

If any section, provisions or portion of this Ordinance is adjudged unconstitutional or invalid by a court, the remainder of this Ordinance shall not be affected thereby.

#### **14.04.050 Storm Water Utility Establishment.**

The City of Altoona's storm water system shall be operated as a public utility (hereinafter called the "Storm Water Utility" or "utility"), pursuant to Wisconsin Statute Chapters 62 and 66, from which revenues will be derived subject to the provisions of these Chapters and Wisconsin Statutes.

**14.04.060 Definitions.**

“Equivalent runoff unit or (ERU)” means the basic unit by which the storm water utility charge is calculated under this section.

“Monthly Utility Revenue”. The utility revenue is the estimated monthly expenditures for planning and inventories, capital expenditures, personnel and equipment and operation of the Storm Water utility, in accordance with established City of Altoona’s policy.

“Storm water utility fee” is defined as the charge developed for each parcel of land.

“Utility Factor” is defined as the ratio of runoff volume, in inches, for a particular land use, to the runoff volume, in inches for an average single-family residential property, assuming a 2-inch rainfall and Natural Resources Conservation Services (NRCS) “Type A” soil conditions.

**14.04.70 Storm Water Utility Fee Calculation.**

Storm water utility fees shall be based on methodology developed by the Soil Conservation Service (Midje, 1992). This methodology considers property size, impervious surface area for typical land use and typical runoff rates by land use and soil conditions in determining storm water fees.

**14.04.080 Credits.**

The Council shall adopt policies, by resolution, for adjustment of the storm water utility fees.

**14.04.090 Exemptions.**

The following land uses are exempt from the storm water management fee:

- Public Road Right-of-Way
- Lakes/Streams
- Wetlands

**14.04.100 Fees.**

Based on the methodology outlined in 14.04.070 above, the Common Council shall, by ordinance (Chapter 3.08), set or adjust the utility fees to reflect the costs of the storm water management program. Storm water fees will be kept on file with the City Clerk.

**14.04.110 Payment of Fee.**

Storm water utility fees shall be billed every quarter with utility bills. The fee shall be due and payable according to the same terms as water and sanitary sewer utility bills. Any prepayment or overpayment of charges shall be retained by the City of Altoona and applied against subsequent fees.

**14.04.120 Appeal of Fee.**

If a property owner or person responsible for paying the storm water utility fee believes that a particular assigned fee is incorrect, such a person may submit a request to the Public Works Director that the fee be re-computed along with their basis for request.

Within thirty (30) days of the submission of a request to the Public Works Director for an adjustment, the Public Works Director shall issue a written decision as to whether the request for adjustment should be granted, denied or granted in part. The written decision shall also set forth the reason or reasons for such decision. In reviewing a decision, the Public Works Director shall apply the considerations set forth in Wis. Stat. § 66.0821(4)(c). The decision shall be sent to the customer by mail, and shall be provided to the City Council.

Appeals to the Public Works Director’s decision may be made to by submitting a written appeal to the City Clerk. The appeal will be placed on the agenda for consideration at the next regularly scheduled Council meeting. At the meeting, the Council shall vote to grant or deny the appeal. All decisions of the Council shall be final.

**14.04.130 Penalty for Late Payment.**

Each billing for storm water utility fees not paid when due shall incur a penalty charge of 1.0 percent, per month, of the amount past due.

**14.04.140 Certification of Past Due Fees on Taxes.**

If any storm water utility fees billed prior to October 1 of any year are not paid by November 1, the fees may then be certified to the County Treasurer for collection with real estate taxes, pursuant to Wisconsin Statutes. In addition, the City of Altoona shall also have the right to bring a civil action or to take other legal remedies to collect unpaid fees. (Ord. 8C-07, 2007)

## Chapter 14.08

### ILLEGAL DISCHARGES AND ILLICIT CONNECTIONS

#### Sections:

<b>14.08.010</b>	<b>Purpose</b>
<b>14.08.020</b>	<b>Applicability</b>
<b>14.08.030</b>	<b>Definitions</b>
<b>14.08.040</b>	<b>Discharge Prohibitions</b>
<b>14.08.050</b>	<b>Watercourse Protection</b>
<b>14.08.060</b>	<b>Compliance Monitoring</b>
<b>14.08.070</b>	<b>Prevent, Control and Reduce Storm Water Pollutants by the Use Of BMP's</b>
<b>14.08.080</b>	<b>Notification of Spills</b>
<b>14.08.090</b>	<b>Compliance Enforcement</b>
<b>14.08.100</b>	<b>Appeal Of Notice of Violation</b>
<b>14.08.110</b>	<b>Violations Deemed a Public Nuisance</b>
<b>14.08.120</b>	<b>Severability</b>

#### **14.08.010 Purpose.**

##### (1) AUTHORITY.

a. The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Altoona through the regulation of non-storm water discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
2. To prohibit illicit connections and discharges to the MS4.
3. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

b. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City.

c. In instances where the provisions of this ordinance conflict with provisions of other City ordinances, zoning regulation, or the provisions of State agencies, including, but not limited to, the WPDES Storm water Discharge Permits issued by the WDNR under Wis. Stats. §281.31, the more stringent provision shall apply.

d. The City hereby designates the City Engineer as the person responsible to administer and enforce the provisions of this ordinance.

##### (2) ULTIMATE RESPONSIBILITY.

The Standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

##### (3) FINDINGS OF FACT

The City of Altoona Common Council finds that illegal discharges and illicit connections contribute to the pollution of the waters of the State, and poses a danger to the health, safety, and welfare of the public.

#### **14.08.020 Applicability.**

This ordinance shall apply to all water entering the MS4 generated on any lands unless explicitly exempted by the City.

#### **14.08.030 Definitions**

For the purpose of this Ordinance, the following definitions shall apply:

(1) “Best Management Practices” or “BMP’s” 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 set forth in the WDNR Construction Site Erosion and Sediment Control Technical Standards and the Post Construction Storm Water Management Technical Standards developed under Subchapter V of Wis. Adm. Code Ch NR 151, available on their website at <http://dnr.wi.gov/runoff/stormwater/techstds.htm>.

(2) “City” means the City of Altoona.

(3) “City Engineer” means the governmental employee designated by the Council to administer this chapter and includes any other governmental employees designated by the City Engineer or the Council in the absence of the City Engineer.

(4) “Dechlorinated swimming pool discharge” means pool water that has been allowed to sit for one week or more with no treatment or pool water that can otherwise be tested to show that residual chlorine or bromine levels are non-detectable.

(5) “Discharge” means as defined in Ch. 283, Wis. Stats., and any amendments thereto, when used without the qualification includes a discharge of any pollutant to the waters of this state from any point source.

(6) “Hazardous Materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(7) “Illicit Discharge” means any discharge to a municipal separate storm sewer system that is not composed entirely of storm water except discharges authorized by a WPDES permit or other discharge not requiring a WPDES permit limited to landscape irrigation, individual residential car washing draining onto a grassed area, fire fighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, flows from riparian habitats and wetlands, and similar discharges.

(8) “Illicit Connections” are defined as either of the following:

a. Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by and authorized enforcement agency or,

b. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(9) “Industrial Activity” means any activities subject to WPDES Industrial Permits pursuant to Wis. Adm. Code Ch. NR 216, as adopted effective August 1, 2004 and Ch. 283, Wis. Stats., and any amendments thereto.

(10) “Municipal Separate Storm Sewer System” or “MS4” as defined in the Wis. Adm. Code Ch. NR 216, and any amendments thereto, means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basin, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

a. Owned or operated by a municipality.

b. Designed or used for collecting or conveying storm water.

c. That which is not a combined sewer conveying both sanitary and storm water.

d. That which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

(11) “Non-Stormwater Discharge” means any discharge to the MS4 that is not composed entirely of storm water.

(12) “Owner” means any person holding fee title, an easement or other interest in property.

(13) “Outfall” means the point at which storm water is discharged to waters of the state or leaves one MS4 and enters another.

(14) “Person” means an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

(15) “Pollutant” as defined in Ch. 283, Wis. Stats., and any amendments thereto, means any man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(16) “Pollution prevention” means taking measures to eliminate or reduce pollution.

(17) “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(18) “Storm Sewer” means a closed conduit for conducting collected storm water.

(19) “Storm water” means runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

(20) “Storm water Management Plan/ Storm water Pollution Prevention Plan” means a document that describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable. 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 Water Management Plan.

(21) “Structure” means anything that is constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

(22) “Wastewater” means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(23) “Watercourse” means a natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Eau Claire County, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

(24) “Waters of the State” means lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or its jurisdiction, except those waters which are entirely confined and retained completely upon the premises of a person.

(25) “WDNR” means the Wisconsin Department of Natural Resources

(26) “WPDES Storm water Discharge Permit” means a permit issued by the WDNR under §283.31 Wis. Stats. which authorizes the discharge of storm water from construction sites, industrial facilities, and selected municipalities to waters of the state.

#### **14.08.040 Discharge Prohibitions.**

##### **(1) PROHIBITION OF ILLICIT DISCHARGES.**

No person shall throw, drain, or otherwise discharge, or cause, or allow any other person to throw, drain, or otherwise discharge any illicit discharges into the MS4.

##### **(2) ALLOWED DISCHARGES.**

a. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.

b. Discharges or flow from firefighting, and other discharges specified in writing by the City Engineer as being necessary to protect public health and safety.

c. Discharges associated with dye testing; however this activity requires a verbal notification to the City Engineer and the WDNR a minimum of one day prior to the time of the test.

d. Any non-storm water discharge permitted under a WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the WDNR. Any person subject to such a WPDES storm water discharge permit shall comply with all provisions of such a permit.

**(3) PROHIBITION OF ILLICIT CONNECTIONS.**

a. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

c. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

d. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system of the sanitary sewer system upon approval of the City.

e. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that premises upon receipt of written notice of violation from the City requiring that such location be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City Engineer.

**14.08.050 Watercourse Protection.**

Every person who owns, leases, otherwise controls or occupies premises through which a watercourse passes shall keep and maintain that portion of the watercourse in question free of trash, debris, excessive vegetation and other obstruction which has the tendency to pollute, contaminate or significantly retard or block the flow of water through the watercourse. This duty shall include the responsibility of maintaining structures within or adjacent to the watercourse in such location and in such a manner of repair so as not to constitute an impediment to the use, function or physical integrity of the watercourse.

**14.08.060 Compliance Monitoring.**

**(1) RIGHT OF ENTRY: INSPECTING AND SAMPLING.**

The City reserves the right to enter and inspect all premises in the City which contain watercourses, points of discharge, connections with storm sewers and outfalls for the purpose of ascertaining compliance with this ordinance.

a. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.

b. Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

c. The City shall have the right to set up on any premises such devices as are necessary in the opinion of the City Engineer to conduct monitoring and/or sampling of the facility's storm water discharge.

d. The City has the right to require the discharger to install monitoring equipment as necessary. The premises' sampling and monitoring equipment shall be maintained at all times in a safe and proper



operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

e. Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City Engineer and shall not be replaced. The costs of clearing such access shall be borne by the operator.

f. Unreasonable delays in allowing the City access to a premises is a violation. A person who is the operator of a facility commits an offense if the person denies the City reasonable access to the premises for the purpose of conducting any activity authorized or required by this ordinance.

**(2) SPECIAL INSPECTION WARRANT.**

If the City Engineer has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause under §66.0119, Wis. Stats to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City Engineer may seek issuance of a special inspection warrant per §66.0119, Wis. Stats.

**14.08.070 Prevent, Control and Reduce Storm Water Pollutants by the Use of BMP'S.**

The owner or operator of any activity, operation, or facility and the owner, lessee or occupant of any premises which causes or contributes to pollution or contaminates storm water, the MS4 or watercourses, at his or her sole expense, shall provide reasonable protection against the accidental discharge of prohibited or non permitted materials or other waste into the MS4 or other watercourses and may be required to implement additional structural or non structural BMPs to prevent further or continuing discharge of pollutants to the MS4 and watercourses. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and condition of a valid WPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a Storm water Management Plan (SWMP)/ Storm water Pollution Prevention Plan (SWPPP) as necessary for compliance.

**14.08.080 Notification of Spills.**

Notwithstanding other requirements of law, as soon as any person who owns or occupies any premises subject to this ordinance or who operates a facility or operation has any information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City Engineer in person or by telephone or facsimile no later than the next business day. Notification in person or by telephone shall be confirmed by written notice addressed and mailed to the City Engineer within 3 business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 7 years. Failure to provide notification of a release as provided above is a violation of this ordinance.

**14.08.090 Compliance Enforcement.**

**(1) VIOLATIONS.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this

ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City Engineer is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The City Engineer is authorized to seek costs of the abatement as outlined in Section E below.

(2) WARNING NOTICE.

When the City Engineer finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the City Engineer may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the City Engineer to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

(3) NOTICE OF VIOLATION.

Whenever the City Engineer finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City Engineer may order compliance by written notice of violation to the responsible person. The Notice of Violation shall contain:

- a. The name and address of the alleged violator;
- b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- f. A statement that the determination of violation may be appealed to the City Board of Appeals by filing a written notice of appeal within 14 days of service of notice of violation; and
- g. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected premises;
5. Payment of a fine to cover administrative and remediation costs; and
6. Preparing plans for and implementing BMPs.

(4) SUSPENSION OF MS4 ACCESS

**a. Emergency Cease and Desist Orders.** When the City Engineer finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to reoccur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City Engineer may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

1. Immediately comply with all ordinance requirements; and
2. Take such appropriate preventative action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge. Any

person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City Engineer may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of state, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The City Engineer may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City Engineer that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City Engineer within 5 days of receipt of the emergency order as a prerequisite for taking any other action against the violator.

**b. Suspension due to Illicit Discharges in Emergency Situations.** The City Engineer may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the City Engineer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

**c. Suspension due to the Detection of Illicit Discharge.** Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City Engineer will notify a violator of the proposed termination of its MS4 access. The violator may petition the City Engineer for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City Engineer.

**d. Prosecution and Penalties.** Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the set time period specified by the City Engineer, after he/she has taken one or more of the actions described above, he/she may impose a penalty not to exceed \$1,000 per day, the specific amount of which shall be determined by the severity of the violation in question, for each day the violation remains unremedied after receipt of the notice of violation. The City Engineer may also impose upon a violator alternative compensatory actions, such as storm drain stenciling/markings, attendance at compliance workshops, pond or drainage way cleanup, etc.

**(5) COST OF ABATEMENT OF THE VIOLATION.**

Within 30 days after abatement of the violation, the owner of the premises will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the City, the charges shall become a special charge against the property, and shall constitute a lien on the property, per Wis. Stat. § 66.0628. The City may recover all attorneys' fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**14.08.100 Appeal of Notice of Violation.**

**(1) APPEALS**

Any person receiving a Notice of Violation may appeal the determination of the City Engineer. The notice of appeal must be received by the City within 14 calendar days from the date of the Notice of Violation. Hearing on the appeal before the Board of Appeals shall take place within 60 calendar days from the date of receipt of the notice of appeal.

**(2) ENFORCEMENT MEASURES AFTER AN APPEAL.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event the appeal to the Board of Appeals upheld the decision of the City Engineer, then representatives of the City Engineer are authorized to enter upon the subject private property and

authorized to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**14.08.110 Violations deemed a public nuisance.**

Any condition in violation of any of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

**14.08.120 Severability.**

The provisions of this ordinance are hereby declared to be severable. If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment. (Ord 6A-10, 2010).

## Chapter 14.10

### CONSTRUCTION SITE EROSION CONTROL

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#### FOREWORD

The intent of this ordinance is to require use of best management practices to reduce the amount of sediment and other pollutants resulting from land disturbing construction activities on sites that do not include the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce in s. COMM 21.125 or COMM 50.115, Wis. Adm. Code. Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of ch. NR 151, Wis. Adm. Code.

**14.10.010 Authority.**

1. This ordinance is adopted under the authority granted by 62.234, Wis. Stats. This ordinance supersedes all provisions of any ordinance previously enacted under s. 62.23, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 62.234 Wis. Stats., s. 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

2. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same City of Altoona Common Council.

3. The City of Altoona Common Council hereby designates the Altoona Public Works Director or his designee to administer and enforce the provisions of this ordinance.

4. The requirements of this ordinance do not pre-empt more stringent erosion and sediment control 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 s. 281.16 and 283.33, Wis. Stats.

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

**14.10.020 Findings of Fact.**

The City of Altoona Common Council finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the City of Altoona.

**14.10.030 Purpose.**

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; 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, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the City of Altoona.

**14.10.040 Applicability and Jurisdiction.**

(1) APPLICABILITY.

a. This ordinance applies to the following land disturbing construction activities except as provided under sub. (b):

1. A construction site, which has one or more acres of land disturbing construction activity.

2. Construction sites of any size with land disturbing construction activity, that, in the opinion of the Altoona Public Works Director or his designee, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

b. This ordinance does not apply to the following:

1. Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce under s. COMM 21.125 or COMM 50.115, Wis. Adm. Code.

2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.

3. Nonpoint discharges from agricultural facilities and practices.

4. Nonpoint discharges from silviculture activities.

5. Routine maintenance for project sites under 1 acre of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(2) JURISDICTION.

This ordinance applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the City of Altoona.

(3) EXCLUSIONS.

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

**14.10.050 Definitions.**

1. "Administering authority" means a governmental employee, or a regional planning commission empowered under s. 62.234, Wis. Stats., that is designated by the City of Altoona Common Council to administer this ordinance.

2. "Agricultural facilities and practices" has the meaning 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 practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

5. "Business day" means a day the office of the Altoona Public Works Director 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. "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

8. "Division of land" means the creation from one parcel of two or more parcels.

9. "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

10. "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

11. "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.

12. "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

13. "Governing Board" means the Altoona Common Council.

14. "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.

15. "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

16. "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

17. "Permit" means a written authorization made by the Altoona Public Works Director or his designee to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

18. "Plan" means Erosion and Sediment Control Plan or Abbreviated Plan.

19. "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.

20. "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.

21. "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

22. "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

23. "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

24. "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.

25. "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

26. "Stop work order" means an order issued by the Altoona Public Works Director or his designee] which requires that all construction activity on the site be stopped.

27. "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

28. "Waters of the state" has the meaning given in s. 281.01 (18), Wis. Stats.

#### **14.10.060 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 any of the following:

a. Applicable design criteria, standards and specifications identified in the *Wisconsin Construction Site Best Management Practice Handbook*, WDNR Pub. WR-222 November 1993 Revision.

b. Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

c. For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(2) OTHER STANDARDS. Other technical standards not identified or developed in sub. (1), may be used provided that the methods have been approved by the Altoona Public Works Director or his designee.

#### **14.10.070 Performance Standards.**

(1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan or abbreviated plan, developed in accordance with 14.10.090, which incorporates the requirements of this section.

(2) PLAN. A written plan shall be developed in accordance with 14.10.090 and implemented for each construction site.

(3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The plan required under sub. (2) shall include the following:



a. BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

b. Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

c. Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
2. Prevent the discharge of sediment as part of site de-watering.
3. Protect the separate storm drain inlet structure from receiving sediment.

d. 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.

4. LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

5. ALTERNATE REQUIREMENTS. The Altoona Public Works Director or his designee may establish storm water management requirements more stringent than those set forth in this section if the Altoona Public Works Director or his designee determines that an added level of protection is needed for sensitive resources.

#### **14.10.080 Permitting Requirements, Procedures and Fees.**

(1) PERMIT REQUIRED. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Altoona Public Works Director or his designee.

(2) PERMIT APPLICATION AND FEES. At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of 14.10.090 and shall pay an application fee as set forth by the Altoona Common Council in Chapter 3.08 of Altoona Municipal Code. By submitting an application, the applicant also agrees to pay any engineering review fees incurred by the City in connection with plan review, which shall be paid prior to issuance of the permit. By submitting an application, the applicant further authorizes the Altoona Public Works Director or his designee to enter the site to obtain information required for the review of the erosion and sediment control plan.

(3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The Altoona Public Works Director or his designee shall review any permit application that is submitted with an erosion and sediment control plan or abbreviated plan, and the required fee. The following approval procedure shall be used:

a. Within 15 business days of the receipt of a complete permit application, as required by sub. (2), the Altoona Public Works Director or his designee shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.

b. If the permit application and plan are approved, the Altoona Public Works Director or his designee shall issue the permit upon receipt of any engineering review fees due.

c. If the permit application or plan is disapproved, the Altoona Public Works Director or his designee shall state in writing the reasons for disapproval.

d. The Altoona Public Works Director or his designee may request additional information from the applicant. If additional information is submitted, the Altoona Public Works Director or his designee shall have 10 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

e. Failure by the Altoona Public Works Director or his designee to inform the permit applicant of a decision within 15 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) SURETY BOND. As a condition of approval and issuance of the permit, the Altoona Public Works Director or his designee may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(5) PERMIT REQUIREMENTS. All permits shall require the responsible party to:

a. Notify the Altoona Public Works Director or his designee within 48 hours of commencing any land disturbing construction activity.

b. Notify the Altoona Public Works Director or his designee of completion of any BMPs within 14 days after their installation.

c. Obtain permission in writing from the Altoona Public Works Director or his designee prior to any modification pursuant to 14.10.090(3) of the erosion and sediment control plan or abbreviated plan.

d. Install all BMPs as identified in the approved plan.

e. Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the plan.

f. Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.

g. Inspect 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.

h. Allow the Altoona Public Works Director or his designee to enter the site for the purpose of inspecting compliance with the plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan at the construction site.

(6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by the Altoona Public Works Director or his designee in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in 14.10.070.

(7) PERMIT DURATION. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Altoona Public Works Director or his designee may extend the period one or more times for up to an additional 180 days. The Altoona Public Works Director or his designee may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(8) MAINTENANCE. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

#### **14.10.090 Erosion and Sediment Control Plan, Abbreviated Plan and Amentments.**

(1) EROSION AND SEDIMENT CONTROL PLAN.

a. For each construction site identified under 14.10.040(1)(a)1 (sites greater than 1 acre), an erosion and sediment control plan shall be prepared and submitted to the Altoona Public Works Director or his designee.

b. The erosion and sediment control plan shall be designed to meet the performance standards in 14.10.070 and other requirements of this ordinance.

c. The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

1. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.

2. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

3. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

5. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.

6. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.

7. Existing data describing the surface soil as well as subsoils.

8. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.

9. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.

d. The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.

1. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.

2. Boundaries of the construction site.

3. Drainage patterns and approximate slopes anticipated after major grading activities.

4. Areas of soil disturbance.

5. Location of major structural and non-structural controls identified in the plan.

6. Location of areas where stabilization practices will be employed.

7. Areas which will be vegetated following construction.

8. Areal extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.

9. Locations of all surface waters and wetlands within one mile of the construction site.

10. An alphanumeric or equivalent grid overlying the entire construction site map.

e. Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

1. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

2. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically

approved in writing by the Altoona Public Works Director or his designee, structural measures shall be installed on upland soils.

3. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
4. Trapping of sediment in channelized flow.
5. Staging construction to limit bare areas subject to erosion.
6. Protection of downslope drainage inlets where they occur.
7. Minimization of tracking at all sites.
8. Clean up of off-site sediment deposits.
9. Proper disposal of building and waste materials at all sites.
10. Stabilization of drainage ways.
11. Control of soil erosion from dirt stockpiles.
12. Installation of permanent stabilization practices as soon as possible after final grading.
13. Minimization of dust to the maximum extent practicable.

(f) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(2) **ABBREVIATED EROSION AND SEDIMENT CONTROL PLAN.** For each construction site identified under 14.10.040(1)(a)2 (sites less than one acre), an abbreviated erosion and sediment control plan (abbreviated plan) shall be prepared, in lieu of a complete Erosion and Sediment Control Plan. This plan shall be submitted to the Altoona Public Works Director or his designee. The abbreviated plan shall briefly describe the site, including a site map. Further, it shall include the best management practices that will be used to meet the requirements of this ordinance, including the site development schedule.

(3) **AMENDMENTS.** The applicant shall amend the Plan or Abbreviated Plan if any of the following occur:

- a. There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
- b. The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
- c. The Altoona Public Works Director or his designee notifies the applicant of changes needed in the plan.

#### **14.10.100 Fee Schedule.**

The fees referred to in other sections of this ordinance shall be established by the Altoona Common Council and may from time to time be modified. A schedule of the fees established by the Altoona Common Council, as set forth in Altoona Municipal Code Chapter 3.08, shall be available for review in Altoona City Hall.

#### **14.10.110 Inspection.**

If land disturbing construction activities are being carried out with or without a permit required by this ordinance, the Altoona Public Works Director or his designee may enter the land pursuant to the provisions of Chapter s. 66.0119(1), (2), and (3), Wis. Stats.

#### **14.10.120 Enforcement.**

1. The Altoona Public Works Director or his designee may post a stop-work order if any of the following occurs:
  - a. Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.
  - b. The erosion and sediment control plan is not being implemented in a good faith manner.

- c. The conditions of the permit are not being met.
- 2. If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the approved plan or permit conditions, the Altoona Public Works Director or his designee may revoke the permit.
- 3. If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Altoona Public Works Director or his designee, or if a responsible party violates a stop-work order posted under sub. (1), the Altoona Public Works Director or his designee may request the City attorney to obtain a cease and desist order in any court with jurisdiction.
- 4. The Altoona Public Works Director or his designee may retract the stop-work order issued under sub. (1) or the permit revocation under sub. (2) if the activity is brought into compliance with this ordinance.
- 5. After posting a stop-work order under sub. (1), the Altoona Public Works Director or his designee may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Altoona Public Works Director or his designee may go on the land and commence the work after issuing the notice of intent. The full costs of the work performed under this subsection, including administrative costs and interest at a rate authorized by the City Administrator, shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.
- 6. Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$100 nor more than \$1000 plus the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- 7. 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.

**14.10.130 Appeals.**

- 1. BOARD OF APPEALS OR ADJUSTMENT. The board of appeals created pursuant to Chapter 2.52 of the city's ordinance and to 62.23(7)(e) Wis. Stats.:
  - a. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Altoona Public Works Director or his designee in administering this ordinance except for cease and desist orders obtained under 14.10.120 (3).
  - b. Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
  - c. Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- 2. WHO MAY APPEAL. Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the City of Altoona affected by any decision of the Altoona Public Works Director or his designee.

**14.10.140 Severability.**

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

## Chapter 14.12

### POST-CONSTRUCTION STORM WATER MANAGEMENT

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**FOREWORD.**

The intent of this ordinance is to reduce the amount of post-construction storm water and associated pollutants reaching waters of the state. Use of this ordinance by municipalities will foster the consistent statewide application of post-construction performance standards for new development and redevelopment contained in subchapters III and IV of chapter NR 151, Wis. Adm. Code.

**14.12.010 Authority.**

1. This ordinance is adopted by the Altoona Common Council under the authority granted by s. 62.234, Wis. Stats. This ordinance supersedes all provisions of any ordinance previously enacted under s. 62.23, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in s. 62.234, Wis. Stats., s. 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
2. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
3. The Altoona Common Council hereby designates the Public Works Director or his designee 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 s. 281.16 and 283.33, Wis. Stats.
  - b. Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

**14.12.020 Findings of Fact.**

The Altoona 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.

**14.12.030 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 Altoona Common Council that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The Altoona 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 Altoona 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.

#### **14.12.040 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 meeting any of the criteria in this paragraph, unless the site is otherwise exempt under paragraph (b).

- 1. A post construction site that had one or more acres of land disturbing construction activity.
- 2. Post-construction sites of any size that, in the opinion of the Public Works Director or his designee, are 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.

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 fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

##### **(2) JURISDICTION.**

This ordinance applies to post construction sites within the boundaries and jurisdiction of the City of Altoona.

##### **(3) EXCLUSIONS.**

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.



**14.12.050 Definitions.**

1. "Administering authority" means a governmental employee, or a regional planning commission empowered under s. 62.234, Wis. Stats., that is designated by the Altoona Common Council to administer this ordinance.
2. "Agricultural facilities and practices" has the meaning given in s. 281.16, Wis. Stats.
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 Public Works Director or his designee 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 storm water 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 [number] or more parcels or building sites of [number] 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, berms 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 s. NR 102.11, Wis. Adm. 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 Public Works Director or his designee by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water 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 storm water 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 s. NR 115.03(6), Wis. Adm. Code.

31. “Outstanding resource waters” means waters listed in s. NR 102.10, Wis. Adm. 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 Public Works Director or his designee 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 Public Works Director or his designee 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 s. 283.01(13), Wis. Stats.

38. “Pollution” has the meaning given in s. 281.01(10), Wis. Stats.

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 s. NR 140.05(17), Wis. Adm. 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 storm water BMPs.

44. “Runoff” means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

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 storm water 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 Public Works Director or his designee which requires that all construction activity on the site be stopped.

48. "Storm water management plan" means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

49. "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.

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 s. 281.01 (18), Wis. Stats.

#### **14.12.060 Technical Standards.**

The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of storm water 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, Wis. Adm. 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 Public Works Director or his designee.
3. In this ordinance, the following year and location has been selected as average annual rainfall(s): Minneapolis, 1959 (Mar. 13-Nov. 4).

#### **14.12.070 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 S.090 shall be developed and implemented for each post-construction site.

(3) REQUIREMENTS. The plan required under sub. (2) shall include the following:

(a) 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. 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 ...December 14, 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...December 14, 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 subs. 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.

**(b) PEAK DISCHARGE.**

1. By design, BMPs 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 2-year, 10-year, 25-year and 100-year recurrence interval, 24-hour duration design storms applicable to the post-construction site.

The 10-year, 25-year and/or the 100-year recurrence interval requirements of this section may be waived or modified, in the sole discretion of the Public Works Director or his/her designee, if it can be demonstrated that safe conveyance of the 100-year storm event is possible without adversely affecting public or private lands, buildings, or infrastructure. The Public Works Director or his/her designee in his/her sole discretion, may also waive or modify the 10-year, 25-year and/or the 100-year recurrence interval requirements of this section if there are existing site conditions that make constructing those BMPs unfeasible or impracticable and it can be demonstrated no adverse impact to adjacent public or private properties will occur. (Ord. 3G-08, (part), 2008)

The 10 , 25 and 100-year recurrence interval requirements of this section shall be waived for post-construction sites adjacent to a downstream water body 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 2-year, 24-hour storm event. (Ord. 3G-08, (part), 2008).

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.

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

**Note to Users:** The curve numbers in Table 1 represent mid-range values for soils under a good hydrologic condition where conservation practices are used and are selected to be protective of the resource waters.

2. This subsection of the ordinance does not apply to any of the following:

a. A redevelopment post-construction site.

(c) INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subds. 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, including runoff from anticipated buildings and other impervious structures, 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, including runoff from anticipated buildings and other impervious structures, 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 par. (b).

**Note to Users:** A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology may be used.

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 subd. 8. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

**Note to Users:** To achieve the infiltration requirement for the parking lots or roads, maximum extent practicable should not be interpreted to require significant topography changes that create an excessive financial burden. To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

5. Development prohibited from infiltrating. 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 s. 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 s. NR 216.21(2)(b), Wis. Adm. Code.

**Note to Users:** 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 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. 5.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 s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. 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 s. 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% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subd. 5.i. does not prohibit infiltration of roof runoff.

**Note to Users:** The areas listed in subd. 5 are prohibited from infiltrating runoff due to the potential for groundwater contamination.

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 ch. 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.

b. Notwithstanding subd. par. a., the discharge from BMPs 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 s. 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 s. 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 s. 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 subd. 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 storm water 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.

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

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

**Note to Users:** Other regulations, such as Ch. 30, Wis. Stats., and Chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval process may apply in the protective area.

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 s. 59.692(1v), Wis. Stats.

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.

**Note to Users:** A vegetated protective area to filter runoff pollutants from post-construction sites described in subd. 4.e. is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to

be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.

(e) FUELING AND VEHICLE MAINTENANCE AREAS. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

**Note to Users:** A combination of the following BMPs may be used: 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 (Optional)

1. Applicability. Except as provided in subd. 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.

**Note to Users:** It is preferred that tall and dense vegetation be maintained 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.

**Note to Users:** Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks or parking lanes do not comply with the design requirements of this paragraph. However, a limited amount of structural measures such as curb and gutter may be allowed as necessary to account for other concerns such as human safety or resource protection.

2. Exemptions. The Public Works Director or his designee 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 s. 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 s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

**Note to Users:** The Department of Natural Resource's regional storm water staff can determine if additional BMPs, beyond a water quality swale, are needed under this paragraph.

(4) 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.

(5) 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 ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

**Note to Users:** This allows the location of BMPs in navigable surface waters where necessary to augment management practices upstream of the navigable surface water to meet the performance standards.

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.

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

g. The Public Works Director or his designee may approve off-site management measures provided that all of the following conditions are met:

1. The Public Works Director or his designee determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of Altoona 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 Public Works Director or his designee 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 Public Works Director or his designee. In determining the fee for post-construction runoff, the Public Works Director or his designee shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(6) ALTERNATE REQUIREMENTS. The Public Works Director or his designee may establish storm water management requirements more stringent than those set forth in this section if the Public Works Director or his designee determines that an added level of protection is needed to protect sensitive resources.

#### **14.12.080 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 Public Works Director or his designee 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 Public Works Director or his designee a permit application made on a form provided by the Public Works Director or his designee for that purpose.

a. Unless otherwise excepted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee as established by the Altoona Common Council and set forth in Chapter 3.08 of Altoona Municipal Code. By submitting the application, the applicant also agrees to pay any plan review fees incurred by the City, which shall be paid prior to issuance of the permit.

b. The storm water management plan shall be prepared to meet the requirements of S14.12.070 and 09, the maintenance agreement shall be prepared to meet the requirements of 14.12.100, the financial guarantee shall meet the requirements of 14.12.110, and fees shall be those established by the Altoona Common Council.

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

a. Within 20 business days of the receipt of a complete permit application, including all items as required by sub. (2), the Public Works Director or his designee 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 storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Public Works Director or his designee shall issue the permit.

c. If the storm water permit application, plan or maintenance agreement is disapproved, the Public Works Director or his designee shall detail in writing the reasons for disapproval.

d. The Public Works Director or his designee may request additional information from the applicant. If additional information is submitted, the Public Works Director or his designee shall have 15 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 Public Works Director or his designee to inform the permit applicant of a decision within 20 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 Public Works Director or his designee may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Public Works Director or his designee to suspend or revoke this permit may be appealed in accordance with 14.12.140.

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 and this permit.

c. The responsible party shall notify the Public Works Director or his designee at least 2 business days before commencing any work in conjunction with the storm water management plan, and within 2 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 Public Works Director or his designee 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 storm water management practices must pass a final inspection by the Public Works Director or his designee or to determine if they are in accordance with the approved storm water management plan and ordinance. The Public Works Director or his 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 Public Works Director or his designee of any significant modifications it intends to make to an approved storm water management plan. The Public Works Director or his designee 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 Altoona Common Council, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

g. The responsible party authorizes the Public Works Director or his designee to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under 14.12.110.

h. If so directed by the Public Works Director or his designee, 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 storm water management plan.

i. The responsible party shall permit property access to the Public Works Director or his designee or its designee for the purpose of inspecting the property for compliance with the approved storm water 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 Public Works Director or his designee 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 14.12.130, 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 Public Works Director or his designee in addition to the requirements needed to meet the performance standards in 14.12.070 or a financial guarantee as provided for in 14.12.110.

(6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Public Works Director or his designee notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d).

#### **14.12.090 Storm Water Managements Plan.**

(1) PLAN REQUIREMENTS. The storm water management plan required under 14.12.080 (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 [number] feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used

in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. 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 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 [number] 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 [number] feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

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 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 14.12.070.

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 Public Works Director or his designee 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 Public Works Director or his designee may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 14.12.070 (5).

#### **14.12.100 Maintenance Agreement.**

(1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required under 14.12.080 (2) for storm water management practices shall be an agreement between the Public Works

Director or his designee and the responsible party to provide for maintenance of storm water 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 storm water management practices.

(2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by 14.12.090(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 14.12.080 (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 14.12.080 (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 Public Works Director or his designee to access the property to conduct inspections of 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 Public Works Director or his designee to maintain public records of the results of the site inspections, to inform the party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.

g. Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the Public Works Director or his designee of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Public Works Director or his designee.

h. Authorization of the Public Works Director or his designee to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The Public Works Director or his designee shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

#### **14.12.110 Financial Guarantee.**

(1) ESTABLISHMENT OF THE GUARANTEE. The Public Works Director or his designee may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Public Works Director or his designee. The financial guarantee shall be in an amount determined by the Public Works Director or his designee to be 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 agreement has maintenance responsibility. The financial guarantee shall give the Public Works Director or his designee the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the Public Works Director or his designee 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 Public Works Director or his designee shall release the portion of the financial guarantee established under this section, less any costs incurred by the Public Works Director or his designee to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Public Works Director or his designee may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

b. The Public Works Director or his designee shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Public Works Director or his designee, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

**14.12.120 Fee Schedule.**

The fees referred to in other sections of this ordinance shall be established by the Altoona Common Council and may from time to time be modified. A schedule of the fees established by the Altoona Common Council, as set for the in Altoona Municipal Code Chapter 3.08, shall be available for review in Altoona City Hall.

**14.12.130 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 Public Works Director or his designee 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 Public Works Director or his designee under sub. (2), 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 Public Works Director or his designee 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 Public Works Director or his designee may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Public Works Director or his designee plus interest and legal costs shall be billed to the responsible party.

5. The Public Works Director or his designee 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 municipal attorney to obtain a cease and desist order in any court with jurisdiction.

6. The Public Works Director or his designee 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 Public Works Director or his designee or by a court with jurisdiction.

8. The Public Works Director or his designee 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 municipal 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 \$100 dollars or more than \$1,000 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 Public Works Director or his designee determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the Public Works Director or his designee or a party designated by the Public Works Director or his designee 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 Public Works Director or his designee 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 14.12.110 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.

**14.12.140 Appeals.**

(1) BOARD OF APPEALS OR ADJUSTMENT. The board of appeals created pursuant to Chapter 2.52 of the City of Altoona ordinances s. 62.23(7)(e), Wis. Stats, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Public Works Director or his designee 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 board of appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Altoona affected by any decision of the Public Works Director or his designee.

**14.12.150 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.