

## CHAPTER 14 BUILDING, CONSTRUCTION SITE AND HOUSING CODES

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#### **SUBCHAPTER I: BUILDING CODE**

**14.01 TITLE.** This subchapter shall be known as the "Building Code of the City of Baraboo" and will be referred to in this subchapter as "this code".

**14.02 PURPOSE.** This code provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished, and regulates the equipment, maintenance, use and

occupancy of all such buildings and/or structures. Its purpose is to protect and foster the health, safety, and well being of persons occupying or using such building, and the general public.

**14.03 SCOPE.** This code shall apply to all new commercial, industrial and residential buildings and auxiliary buildings and structures erected within the City or moved into the City. It shall also apply to existing buildings when the code so provides.

- (1) **NEW BUILDINGS.** New buildings or structures hereafter erected in the City shall conform to all the requirements of this code.
- (2) **EXISTING BUILDINGS.** The following specified requirements shall apply to existing buildings which do not conform to the requirements of this code:
  - (a) Major Alterations and Repairs.  
Alterations and repairs in excess of 50% of the fair market value of an existing building, not deducting from such value any loss caused by fire or for any other reason, shall cause the entire building to be made to conform to the requirements of this code for new buildings or shall be entirely demolished.
  - (b) Minor Alterations and Repairs.  
Every alteration or repair to any structural part of any existing buildings shall be made to conform to the requirements of this code for new buildings, except energy codes shall not apply to alterations and repairs to existing buildings where the cost of such alterations or repairs is less than 50% of the fair market value of the building.
  - (c) Changed Use. If the existing use or occupancy of any existing building is changed to a use or occupancy which will not be permitted in a building hereafter erected, the entire building shall be made to conform to the requirements given herein for new buildings, provided, however, that if the use or occupancy of only a portion or portions of any existing building is changed, only such portion or portions of the building need to comply with the requirements; and provided further that the Building Inspector is hereby authorized to approve any change in use or occupancy of an existing building even though such building is not made to conform fully to the requirements of this code when it is

obvious that such a change in use or occupancy of the existing building will not extend or increase any nonconformity or hazard of the building.

- (3) **MAINTENANCE.** The requirements of this code covering the maintenance of buildings shall apply to all buildings and structures now existing or hereafter erected. All buildings and structures and all parts thereof shall be maintained in a safe condition and all safeguards and devices that are required by this code at the erection, alteration or repair of any building shall be maintained in good working order. The provisions of this code shall not be construed as permitting the removal or non-maintenance of any devices or safeguards unless authorized in writing by the Building Inspector.

#### **14.04 ORGANIZATION AND ENFORCEMENT**

- (1) **DEPARTMENT OF BUILDING INSPECTION.** There is hereby established a department of the City to be known as the Department of Building Inspection and shall include a Building Inspector, a Plumbing Inspector, an Electrical Inspector and such other inspectors, assistants and employees as the Council may from time to time appoint. Any and all of such offices may be combined and held by the same person. The Department of Building Inspection shall be responsible for the supervision of the plumbing, electrical and building codes of the City, the safety inspection of all premises including structures and appurtenances located thereon, and the enforcement of the Zoning Code.
- (2) **BUILDING INSPECTOR.**
  - (a) Appointment. See §1.03(7) of this Code.
  - (b) Qualifications. The Building Inspector shall have the necessary ability to supervise the general construction of building and the permanent equipment of buildings. He shall have an office in the City Hall and shall not be financially interested, either directly or indirectly in the construction of buildings, or in the preparation of plans and specifications thereof, or permanent equipment. The Building Inspector shall be certified for inspection purposes by the Department of Commerce, Safety, and Buildings Division and by the Department of Health and Social

Services in the category of plumbing. His subordinates, if any, shall also be so certified.

- (c) Powers and Duties. Except as otherwise provided in this chapter, the Building Inspector shall have the general management and control of all matters pertaining to the Department of Building Inspection and shall enforce all State laws, this Code and other lawful orders and regulations relating to the construction, alterations, repair, removal and safety of buildings and structures, and permanent equipment. Such Inspector or any properly authorized deputy or assistant shall have the power and authority, at all reasonable times, for any proper purpose, to enter upon any public or private premises and make inspections thereof and to require the production of the permit for any building, electrical or plumbing work requiring license therefore. Any person interfering with the said Inspector while in performance of the duties prescribed in this chapter shall forfeit and pay to the City the penalty hereafter provided. The Building Inspector may refuse to approve construction in any case in which the workmanship is not of a workmanlike character. In case the defective work is satisfactorily corrected, he may then issue the required approval.
- (d) Records and Reports. The Building Inspector shall keep a record of all applications for building permits in a book and regularly number each permit in the order of its issue. He shall keep a record showing the number, description and size of all buildings erected during the term of his office, indicating the kind of materials used and the cost of all buildings of the various classes. He shall keep a record of all inspections made. He shall make monthly reports and an annual report to the Council of the above matter.
- (e) Inspections. No structural portion of any part of any building or structure shall be covered or concealed in any manner whatsoever without having the approval of the Building Inspector. Such approval shall be given only after an inspection has been made by the Building Inspector following notification by the permit holder or his agent. If any portion of the work is

not approved by the Building Inspector, the permit holder or his agent shall be notified wherein the same fails to comply with this chapter.

- (f) Inspection Powers. The Inspectors provided for in this chapter shall have the power and authority at all reasonable time, for any proper purpose, to enter upon any public or private premises and make inspection thereof and to require the production of the permit for any building, electrical or plumbing work or to require license therefore. Any person interfering with or refusing entrance to the said Inspector while in the performance of his prescribed duties shall forfeit and pay to the City the penalty hereafter provided.

(3) **BOARD OF ZONING APPEALS.**

- (a) Membership. See §1.17 of this Code.
- (b) Powers and Duties. See §17.41 of this Code.

**14.05 APPLICATION OF STATE CODES.** The Uniform Dwelling Code – Department of Safety and Professional Services (DSPS) Chs. 316, 320 through 325, 360 through 366, and 375 through 387, the State Flammable Combustible, and Hazardous Liquids Code – Agriculture, Trade, and Consumer Protection (ATCP) Ch. 93, and the State Well Drilling Code – Natural Resources (NR) 812 of the Wisconsin Administrative Code are hereby adopted by reference and the Building Inspector shall enforce the provisions thereof. Any violation of said codes or amendments thereto shall constitute a violation of this code, whether unlawful building alteration, installation, moving or construction involved is specially covered by other provisions of this code or not, and shall render the violator liable to the penalties contained herein. Any future amendments, revisions, or modifications of the code provisions incorporated herein are intended to be made a part of this chapter. (2039 12/19/2000, 2546 3/10/2020)

**14.06 DEFINITIONS OF TERMS.** The building terms in this chapter shall have the meaning given them by the State Building Code and by common usage in the building trades.

**14.07 WORKMANSHIP REGULATED.** Workmanship in the fabrication, preparation and the installation of materials shall conform to generally accepted good practice.

**14.08 BUILDING PERMITS AND INSPECTION.**

- (1) PERMIT REQUIRED. No building of any kind shall be moved within or into the City and no new building or structure, or any part thereof, shall hereafter be erected, or ground broken for the same, or any existing building, or any part thereof, enlarged, improved, altered, converted, moved, wrecked, or demolished, except as herein provided, until a permit therefore shall first have been obtained by the owner, or his authorized agent, from the Building Inspector.
- (2) APPLICATION. Application for a building permit shall be made in writing upon a form furnished by the Building Inspector and shall state the name and address of the owner of the land and also the owner of the building if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put, and such other information as the Building Inspector may require.
- (3) DEDICATED STREET REQUIRED. No building permit shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated for street purposes.
- (4) UTILITIES REQUIRED. No building permit shall be issued for the construction of any residential building until sewer and water are installed and grading and graveling of the street necessary to service the property for which the permit is required is completed, and a receipt for payment of electrical hook-up is presented to the Building Inspector. No building permit shall be issued for the construction of any building other than residential until contracts have been let for the installation of sewer, water, grading and graveling in the streets necessary to service the property for which the permit is requested. No person shall occupy any building until sewer, water, grading and graveling are installed in the streets necessary to service the property and a certificate of occupancy shall not be issued until such utilities are available to service the property. If sewer and/or water are not available, no permit shall be issued until a well and/or a septic tank or holding tank permit has been issued.
- (5) PLANS. With such application there shall be submitted a complete set of plans and specifications, including a plot plan showing the location of the proposed building with respect to adjoining roads, highways, streets, alleys, lot lines and buildings. Plans for buildings involving the State Building Code shall bear the stamp of approval of the State Department of Commerce. One plan shall be submitted which shall remain on file in the office of the Building Inspector. All plans and specifications shall be signed by the designer. Plans for all new 1- and 2-family dwellings shall comply with the provisions of Comm. Chapters 20-25.
- (6) APPROVAL OF PLANS. If the Building Inspector determines that the building will comply in every respect with all ordinances of the City and all applicable laws and administrative rules of the State, he shall issue a building permit which shall state the use to which said building is to be put. After being approved, the plans and specifications shall not be altered in any respect that involves any of the above-mentioned ordinances, laws or administrative rules, or which involves the safety of the building or occupants, except with the written consent of the Building Inspector. In case adequate plans are presented for part of the building only, the Building Inspector, at his discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building.
- (7) GRADES. No work shall commence until the proper grades have been reviewed by the City Engineer, including the grade for sidewalks, streets, sewer and general construction.
- (8) POSTING OF PERMIT. The building permit shall be posted on the building site in plain view.
- (9) WAIVER OF PLANS. If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations, repairs or moving.
- (10) FEES FOR BUILDING PERMITS AND INSPECTION – See City’s Official Fee Schedule.
  - (a) Structural Improvements – See City’s Official Fee Schedule.
  - (b) Electrical, Mechanical or Plumbing Work – See City’s Official Fee Schedule.

(NOTE: A permit is required for all new electrical receptacles, switches and fixtures, a new main switch and a new wiring system. No permit is required for the repair of the electrical system, replacement of existing receptacles, switches or fixtures. In addition, a permit is required when any additional plumbing fixture is installed, or when the plumbing system is moved or remodeled. No permit is required for general repair or for fixture replacement when no piping is added.)

  - (c) Miscellaneous Fees – See City’s Official Fee Schedule.
    1. Plan examination under ILHR 50.21

2. Wisconsin Uniform Building Permit Seal
3. Foundation only permits
4. Special inspections
5. Re-inspections
6. House moving
7. Razing permit
8. Woodburning appliances
9. Satellite dishes
10. Fences
11. Signs/canopy
12. Park Fees. See also §17.50

- (d) Fees shall be based upon the physical value of the work to be done, based on current costs, as determined by the building inspector.
- (e) All permit fees shall be doubled if work commences before the required permits are obtained, and the proper fees are paid. The fees shall be doubled for each violation and every day a violation occurs or continues shall constitute a separate offense.

(11) **MINOR REPAIRS AND ALTERATIONS.** The Building Inspector may authorize minor repairs or alterations which do not change the occupancy area, structural strength, fire protection, exits, light or ventilation of the building and which cost is less than \$350 without requiring a building permit to be issued.

(12) **INSPECTION OF WORK.** The builder shall notify the Building Inspector when ready and the Building Inspector shall inspect all buildings upon the completion of the foundation forms, or before the foundation is laid, and again when ready for lath and plaster, or before paneling is applied. After completion, he shall make a final inspection of all new buildings, alterations, and existing buildings put to new uses. If he finds that the work conforms to the provisions of this code, he shall issue a certificate of occupancy which shall contain the date and the result of such inspection, a duplicate of which shall be filed in the office of the Building Inspector.

(13) **PERMIT LAPSES.** A building permit shall lapse and be void unless building operations are commenced within 6 months, or no significant progress has been made within one year, from the date of issuance thereof.

(14) **STOP ORDER.** If the Building Inspector shall find at any time that applicable ordinances, laws, orders, administrative rules, plans and specifications are not being complied with and that the holder of the

permit refused to conform after written warning or instruction has been issued to him, he shall revoke the building, electrical or plumbing permit by written notice posted at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work thereunder until the permit is reissued, except such work as the Building Inspector may order to be done as a condition precedent to the re-issuance of the permit of as he may require for the preservation of human life and safety.

(15) **REPORT OF VIOLATIONS.** The police or other City officers shall report at once to the Building Inspector any building which is being carried on without a permit as required by this chapter.

#### **14.09 CERTIFICATES OF OCCUPANCY.**

(1) **CERTIFICATE REQUIRED.** Upon written request from the owner or his representative, or on his own initiative, the Building Inspector shall issue a certificate of occupancy for all new buildings or premises or part thereof hereafter created, constructed, erected, changed, converted or enlarged after verification by inspection of structural condition, plumbing, wiring and fire hazards, by the proper City authorities; provided that, at the time of the issuance of the certificate, there are no violations of this code, State law or orders pending. No building or structure shall be occupied or used, in whole or in part, until a certificate of occupancy shall have been issued by the Building Inspector and posted on the premises; stating the purpose for which the building may be used in its several parts; in addition, the Building Inspector may in the interest of safety, specify permissible live loads on the several floors, the number of occupants that may be accommodated on the several floors in case such number is limited by any provisions of any law or by the permit, and all special stipulations of the permit, if any.

(2) **TEMPORARY CERTIFICATE OF OCCUPANCY.** Upon request of the holder of a permit or the owner, the Building Inspector may issue a temporary certificate of occupancy for part of a building or structure or, in case of a residence, the whole building; provided that such temporary occupancy or use would not jeopardize life or property. Such permit shall not be issued for more than a period of 6 months and may for cause be renewed once for an additional 6 months.

(3) **CERTIFICATE OF CHANGE OF OCCUPANCY.** No change of occupancy of a building or structure shall be made that is not consistent with the last issued certificate of occupancy for such building or structure unless a new certificate of occupancy is issued. The occupancy of a building or structures

shall not be deemed to have changed because of a temporary vacancy or change of ownership or tenancy. The re-establishment in a building or structure, after a change of occupancy has been made, of a prior use that is not permitted in a new building or structure of the same type of construction is prohibited. The change from a specifically prohibited use to another specifically prohibited use shall not be made.

- (4) **ISSUANCE OF CERTIFICATE OF OCCUPANCY.** A certificate of occupancy shall be issued within 5 days after a written application therefore if the building or structure, at the time of such application, shall be entitled thereto. Copies of certificates of occupancy shall be furnished, upon request, to persons having proprietary interest in the building structure.
- (5) **CERTIFICATE OF COMPLETED INSTALLATIONS.** When a certificate is specifically required by a provision of this code for an installation, extension or alteration of equipment or appliances, it shall be unlawful to use or permit the use of such equipment or appliances to which such provision applies until the appropriate certificate has been issued.

#### **14.10 STRUCTURAL REQUIREMENTS NOT COVERED BY STATE CODES**

- (1) **FOOTINGS AND FOUNDATIONS.** Footings and foundations shall be placed on level undisturbed earth that is suitable for building and in all cases shall extend below the frost line, hereby determined to be 4 feet below finished grade, with the following exceptions:
  - (a) Unattached residential frame garages and accessory buildings shall have the foundation extended not less than 18 inches below grade.
  - (b) Buildings designed for and used for unheated warehouses where the building construction is of steel and the plans have been approved by the Department of Industry, Labor and Human Relations for that occupation intended may be supported by a suitably designed reinforced concrete slab, which has been approved by the Department of Industry, Labor and Human Relations. However, if the purpose or use of the structure is changed, then compliance must be made with the State and local building

requirements applicable to the new use or purpose.

- (c) A one-story basement-less dwelling of brick veneer construction may have the concrete slab laid on a foundation consisting of 10 inch concrete blocks laid on 10 inch by 22 inch footing, the bottom of which shall be at least 4 feet below grade level.
- (d) Where a porch having 30 or more square feet of floor space is to be added to a dwelling in an R-1 or R-2 Residential District, it shall be erected on a foundation consisting of an 8 inch by 16 inch footing and an 8 inch poured concrete wall or an 8 inch concrete block wall filled to ground level on both sides of wall, the bottom of the footing being 4 feet below grade and such porch shall conform to the structural and setback requirements applicable to the house itself. The above requirements shall also apply to any existing porch before permission will be granted to enclose it permanently.
- (e) Concrete footings may be placed in a trench without forms, provided soil is of a stable condition. Foundation walls over 4 foot in height shall be reinforced with not less than 4 continuous #4 or larger re-bar, with 2 continuous bars placed a minimum of 12 inches above bottom of wall, and 2 continuous bars not more than 24 inches below top of wall. In no case shall the concrete for any footing or foundation wall be poured until the excavation or forms have been inspected and approved by the Building Inspector. (1656 09/92)
- (f) No trench for sewer or other excavations shall be made below any foundation wall nearer than 3 feet to any inside corner of said foundation. No trench for sewer or other excavations shall be made nearer to any column or pier footing than 1-1/2 times the depth of the excavation below the bottom of the footing.
- (g) When masonry units are used for basement walls below grade, the exterior surface shall be plastered with not less than 1/4 inch of Portland cement plaster with a 3-

inch radius cover before the application of the required waterproofing. Waterproofing shall be done in an approved manner with acceptable materials.

- (h) Concrete blocks or tile walls shall be bonded with corrosion resistant metal, Dur-A-Wall or equal, at vertical intervals not exceeding 3 courses. The bonding material shall be lapped at the ends not less than 4 inches and shall extend continuously around the building.
- (i) Foundation walls for frame construction shall extend at least 8 inches above the adjacent ground surface.
- (j) An outside means of access shall be provided to the crawl space under basement-less buildings, which opening shall be not less than 24 inches in width and 18 inches in height.
- (k) All excavations shall be graded level unless otherwise required in the approved design.

(2) FLOOR CONSTRUCTION.

- (a) Where remodeling work is being done upon an existing building whose floors are supported by wood beams or girders, either solid or built-up, there shall be no cutting, boring, notching or piercing of those members.
- (b) Entering Masonry or Concrete. Each wood member entering masonry or concrete walls shall be beveled so that the top edge does not enter the masonry or concrete more than one inch.
- (c) Exterior Decks or Balconies. Joists or beams exposed to the elements shall be made of heartwood, cedar or redwood, or pressure treated lumber of sufficient size for the purpose intended.
- (d) Concrete Slab Floor. Where an unsupported slab of concrete is to be used as a floor in any building or structure, such slab shall not be allowed unless it has been designed by a registered architect or engineer, except that an open accessory building consisting of a floor and roof, without side walls, such as a shelter house, with

not more than 700 square feet of floor space, may be constructed on a 4 inch concrete slab with thickened edges and reinforced with wire mesh weighing not less than 40 pounds per 100 square feet.

(3) EXTERIOR WALLS. All frame buildings except garages and accessory buildings, whether sided with wood siding, shingles or brick veneer, shall have the exterior walls solidly sheathed with one of the following:

- (a) Wood sheathing shall not be less than 3/4 inches in thickness and not more than 10 inches in width, double nailed on each stud. When wood sheathing is applied diagonally, boards shall extend at 45° in opposite directions from each corner.
- (b) Plywood, when used for exterior wall sheathing, shall not be less than 3/8 inches in thickness and may be 3-ply interior CD or better grade.
- (c) One inch styrofoam may be used, provided that adequate corner bracing is applied.
- (d) Fiber board sheathing shall be a board treated with asphalt or other water repellent and of a type definitely approved by the Department of Commerce and the National Board of Fire Underwriters and shall not be less than 25/32 inches in thickness. If plywood corners are used, 1/2 inch thickness may be substituted in lieu of the 25/32 inch. Reflective solid fiberboard sheathing shall be a water-resistant laminated wood fiberboard, 1/8 inch nominal thickness. Bright aluminum foil shall be bounded to both faces. Material shall be adequately treated to prevent water penetration at exposed edges and shall be of sufficient strength to meet racking resistance requirements of FHA Technical Bulletin No. 12. Corner bracing may be omitted only when this board is applied in 4 by 9 foot sheets or of a size sufficient to extend down to the top of the foundation wall.
- (e) All exterior walls where boards, shiplap or other non-waterproof sheathing is used shall be covered on the outside face with at least one layer of waterproof building paper or asphalt saturated felt weighing not less than 15 pounds per square,

applied and nailed shingle fashion with horizontal joints lapped not less than 4 inches. Slips of waterproofing building paper or asphalt felt at least 6 inches wide shall be installed behind all exterior trim of exterior openings.

- (f) All openings 4 feet wide or less in interior and exterior bearing walls shall be provided with double headers not less than 2 inches thick placed on edge and fastened securely together, and such headers shall have 2 inch solid bearing to the floor or bottom places. All headers and lintels over openings in exterior bearing wall in masonry construction shall be of steel or reinforced concrete or masonry of the proper size.

(4) ROOFING.

- (a) The minimum ordinary roof covering shall be any roof covering which meets the requirements specified for the Class "C" Specifications of the Underwriter's Laboratories, Inc. Whenever an ordinary composition roof is used, whether roll roofing or shingles, the roof sheathing shall be solid. A double starting row shall be used on all shingle applications. Gable and rake corners shall provide a weather tight joint. Fasteners for attaching roof coverings shall be of corrosion resistant material acceptable to the Building Inspector.
- (b) Fire Underwriter Class A, B or C shall appear on each bundle of asphalt shingles.
- (c) The minimum slope upon which asphalt shingles shall be applied shall be 4:12 except on porches that may have a slope of only 3:12.
- (d) The minimum weight of asphalt shingles shall be not less than 235 pounds per 100 square feet on new work and 190 pounds per 100 square feet when laid over existing roofing. All asphalt shingles shall be of a seal-down type. The exposure shall be as required for Fire Underwriters Class C label and the lap shall be as recommended by the manufacturer. On the new work or on re-roofing work where the old roofing has been removed, an underlay of asphalt saturated felt weighing not less than 15 pounds

per 100 square feet shall be laid under all shingles, except when triple thickness of shingles is provided at all points. Valleys shall be flashed with sheet metal or 2 thicknesses of mineral surfaced roofing, but from rolls weighing not less than 90 pounds per 100 square feet. The bottom sheet shall be not less than 12 inches wide and the top strip shall be not less than 18 inches in width.

- (e) No roof shall be covered with more than 2 layers of any type of double coverage roofing. Whenever a roof is to be re-roofed, when 2 layers exist, all such roofing shall first be removed to the sheathing.

**14.11 GARAGES.**

(1) LOCATION.

- (a) An attached garage is one that is constructed as an integral part of the house or is in the basement of the house or which is so situated that any portion of it lies in front of an imaginary line extending across the lot, said line being 5 feet in back of and parallel to the rearmost portion or rearmost face of the house whether the garage is connected to the house by a breezeway or detached from the house. All such attached garages shall be subject to the rules, regulations and restrictions relative to the distance from rear lot lines that apply to the house proper. Framing of an attached garage shall be consistent with that of the dwelling of which it is a part. A minimum fire resistant wall shall be constructed between an attached garage and the dwelling to which it is attached, in compliance with Department of Commerce 21.08 and Table 21.08.
- (b) A detached garage, no part of which lies less than 5 feet back of and 5 feet away from the rear of the house, may be erected within 3 feet from the side or rear lot line, this distance to be measured from the outer edge of the eaves or drip and not from the foundation.
- (c) Regardless of the building setback line from any street line, no garage or carport, whether attached or detached, shall be located closer than 25 feet to any street line. (1478 11/10/87)

- (d) Frame garages shall not be constructed larger than 750 square feet in area and shall not exceed one story in height nor more than 14 feet in height, measured from floor to peak of roof. Any garage larger than 750 feet in area shall be constructed of masonry, metal or other fireproof material.

(2) STRUCTURE.

- (a) Any garage built as an integral part of a house shall have footings not less than 4 feet below grade.
- (b) Masonry garages shall have the wall and foundation requirements the same as for a one-story frame house.
- (c) In unattached garages, studs and rafters may be 2 by 4 placed 2 feet center to center maximum. Doubling of studs is not required on jamb openings less than 3 feet 6 inches wide.
- (d) Sheathing and building paper may be omitted.
- (e) Corner posts may be two 2 by 4s or one 4 by 4s.
- (f) Top plates may be single, provided rafters occur over studs.
- (g) Rafter ties at eaves may be 2 by 4's, maximum spacing of 6 feet center to center.
- (h) In any case, where a garage door opening measures 15 feet or more in width, except when it is located in a gable end or other nonbearing wall, the header shall consist of two 2 by 12's bolted together with either a wide flange steel H-beam 10 inches by 5-3/4 inches weighing 21 pounds per foot, 10 inch steel I-beam or 10 inch steel channel each weighing 25 pounds per foot or 1/4 inch by 10 inch steel plate, its length to be approximately 12 inches longer than the width of the opening.
- (i) A fabricated wood beam of such design to meet the loading requirements, subject to the approval of the Building Inspector.

**14.12 BUILDING IN BUSINESS DISTRICT.**

- (1) DESCRIPTION OF BUSINESS DISTRICT. The business district limits of the City are hereby established, as follows: Block 21, 22, 23, 26, 28, 33, 34, 35 and the south 1/2 of Block 15 of the City of Baraboo, formerly Adams; Blocks 1, 2, 4, 5, 6, and 7 of the original Plat of the City; and all land lying

between Blocks 6, 7 and 8 of the Original Plat of the City and the Baraboo River.

(2) GENERAL RESTRICTIONS.

- (a) No new building or structure of wood or other combustible materials shall be erected within the business district; no existing building or structure whose outside walls are of wood or masonry veneer over frame construction shall be added to, enlarged, improved or changed within the business district; no existing building or structure of combustible materials now located within the business district shall be moved, except it may be moved outside of the business district; no such building or structure of combustible construction shall be moved into the business district; and no combustible materials shall be fastened to or used on any outside wall of any building or structure now existing or to be erected in the future.
- (b) Where store fronts are hereafter erected on new buildings or structures or are being replaced on existing buildings or structures, the construction shall include only noncombustible materials and no combustible materials shall be used, except in accordance with Comm. 51.02(15).
- (c) Nothing in this section shall be construed as prohibiting the use of combustible materials inside store buildings such as display window floor and backing, shelving and display cases. The restrictions of this paragraph, prohibiting use of wood or other combustible materials, shall not apply to single-family residence property located in the business district provided that no commercial use is made of said property, and provided that all other requirements of this chapter and the Zoning Code are complied with.

- (3) ROOFS. All buildings or structures hereafter constructed within the said business district shall have roofs of approved materials equal in restricting quality to Class "A" or Class "B" of the National Fire Under-writers specifications. Tops and sides of dormer windows shall have the same covering as the roof, in fire resistive quality.

- (4) REPAIR TO WOODEN BUILDINGS DAMAGED. No wooden buildings or part of a wooden building within the business district which may hereafter be damaged by fire or the elements to the extent of 50% of the fair market value thereof shall be repaired or rebuilt nor shall such building, when damages are less than 50% of its fair market value, be so repaired as to be raised higher than the highest part left standing after such damage shall have occurred or so as to occupy a greater space than before the damage thereto.

14.13 **PRIVATE SWIMMING POOLS.** No person shall construct, install or enlarge a residential swimming pool not enclosed in a permanent building in the City except in accordance with the following regulations:

- (1) DEFINITION. "Swimming pool" means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent and either above or below the ground, in which water more than 18 inches deep is contained and which is used primarily for the purpose of bathing or swimming.
- (2) PERMIT.
- (a) Required. No person shall construct, install, enlarge or alter any private swimming pool unless a permit therefore has first been obtained from the Building Inspector.
- (b) Application. Application shall be on forms provided by the Building Inspector and shall be accompanied by plans drawn to scale showing the following:
1. Location of pool on lot, distance from lot lines and distance from structure.
  2. Location of any septic tank, filter bed and sewer and water lines.
  3. Pool dimensions and volume of water in gallons.
  4. Location of proposed fence, and type, size gate location.
  5. Existing overhead wiring relative to proposed pool.
- (c) Fees. See §14.08(10) of this chapter.
- (3) CONSTRUCTION REQUIREMENTS.
- (a) No pool shall be located, erected, constructed or maintained closer to any side or rear lot line than allowed

by Ch. 17 of this Code for permitted accessory building uses, and the waterline of any pool shall not be less than 10 feet from any lot line or building.

- (b) No connection shall be made to the sanitary sewer or septic system.
- (c) Where topography requires, a permanent wall of concrete, masonry or material approved by the Building Inspector shall be constructed to prevent ground and fill from spilling onto adjoining property.
- (d) Gaseous chlorination systems shall not be used for disinfecting pool waters.
- (e) No above-ground pool shall be less than 5 feet from any septic system.

(4) FENCES AND COVERS. (2502 10/09/18

- (a) All swimming pools not enclosed within a permanent building shall comply with one or both of the following:
- (i) Be completely enclosed by a fence of sufficient strength to prevent access to the pool, not less than 5 feet in height and so constructed as not to have voids, holes or openings larger than 4 inches in one dimension. Gates or doors shall be constructed so as to be capable of being locked, and shall be closed and secured so as to prevent unlatching by persons outside the pool at all times when the pool is not in actual use. Above-ground pools with self-provided fencing to prevent unguarded entry shall be permitted without separate additional fencing, provided the self-provided fence is of the minimum height and design as herein specified. Permanent access from grade to above-ground pools having stationary ladders, stairs or ramps shall have safeguard fencing and gates equivalent to those required herein, subject to all other applicable ordinances and subject to the following:
1. No fence shall be located, erected, constructed or maintained closer than 3 feet to a pool.
  2. The wall of the house or building facing a pool may be incorporated as a portion of such fence.

(ii) While not in immediate use, be covered and remain covered by a pool safety cover that meets the standards of ASTM F1346-91(2018), Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs, ASTM International.

- (5) **PORTABLE POOLS.** Portable pools over one foot in depth must be fenced as provided in sub. (4) above, or be drained or covered after each day's use in such a manner as to provide public safety.
- (6) **ELECTRICAL REQUIREMENTS.**
- (a) To Comply With Electrical Codes. All electrical installations shall require separate permits and shall be governed by the City Electrical Code.
- (b) Pool Lights. If overhead flood or other artificial lights are used to illuminate the pool at night, such lights shall be shielded to direct light only on the pool.
- (7) **OPERATION OF POOL.** No pool shall be so operated as to create a nuisance, a hazard or an eyesore or otherwise to result in a substantial adverse effect on neighboring properties.

**14.14 CANOPIES AND MARQUEES.** Any permanent canopy or marquee erected hereafter on any building shall conform to the following provisions:

- (1) **LOCATION.** No canopy or marquee shall have less than 10 feet clear between the grade of the sidewalk at any point and the lowest point of any projection or appendage of any such canopy or marquee and no part of any such canopy or marquee shall extend further over the street than a point 3 feet back on the back edge of the curb. Any such canopy or marquee shall be suspended from the building with no supports resting upon the sidewalk or public highway.
- (2) **MATERIALS.** Canopies and marquees shall be constructed of incombustible materials throughout, shall slope and drain toward the building and shall be provided with conductors connected in such a manner that no water is discharged on any sidewalk.
- (3) **SIGNS.** Any sign or other appendage of a temporary or permanent nature shall be rigidly attached to the canopy or marquee in a manner approved by the Building

Inspector and swinging signs or accessories of any nature are prohibited.

**14.15 RADIANT HEATING UNITS.**

- (1) **DEFINITION.** "Radiant heating unit" is a room heater, stove or free standing fireplace not intended for duct connections used to heat a room or rooms using the combustion of such solid fuels as wood or coal as a source of heat.
- (2) **PERMIT REQUIRED.** It shall be unlawful for any person to install or cause to be installed any radiant heating unit in the City without first having obtained a permit from the Building Inspector.
- (3) **APPLICATION FOR PERMIT.** Application for a permit shall be made on a form provided by the Building Inspector. The following data should be submitted with the application:
- (a) The manufacturer's installation, maintenance and operations manual, and the manufacturer's approval number.
- (b) Type and size of chimney.
- (c) The proposed chimney flue or new chimney flue size.
- (d) The number and size of existing vent connections to the chimney flue.
- (e) The location of the heating unit and the fire resistant coverings to be used, all of which shall be in compliance with Comm. Table 23.04A.
- (4) **ISSUANCE OF PERMIT.** Upon examination of the application and accompanying data by the Building Inspector, the Inspector shall determine whether or not the installation of the radiant heating unit complies with the requirements of this section and, if so, issue the permit; if not, the Building Inspector shall state, in writing, his reasons for not issuing the permit.
- (5) **INSPECTION.** No person may operate or permit the operation of a radiant heating unit until the Building Inspector has inspected and approved the installation thereof.

**14.16 NEW METHODS AND MATERIALS.** All materials, methods of construction and devices designed for use in buildings or structures covered by this code and not specifically mentioned in or permitted by this code shall not be so used until approved in writing by the State Department of Commerce. Such materials, methods of

construction and devices, when approved, must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the State Department of Commerce. The date, tests and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the State Department of Commerce.

**14.17 RESERVED.**

**14.18 FENCES.**

- (1) **PERMIT REQUIRED.** No person shall construct a fence in the City until a permit is obtained from the Building Inspector.
- (2) **APPLICATION; FEE.** Application for a permit shall be filed with the Building Inspector on a form supplied by the Inspector, together with a sketch of the proposed fence and the payment of the required fee.
- (3) **GENERAL REQUIREMENTS.**
  - (a) No fence along property lines shall be constructed more than 6 feet in height and no more than 4 feet in height in the street yard. (See also vision clearance requirements for corner lots in Ch.17 of this Code.)
  - (b) Any person building a fence on the property of another person shall move said fence to its correct location within 30 days after discovery of the encroachment.
  - (c) Any fence constructed shall be constructed a minimum of 4 inches from the property line on the property of the person constructing the fence. No barbed wire fencing shall be permitted in any residential district. A sketch showing the type of fence, location of corners and the spacing of posts shall be submitted to the Building Inspector along with the building permit application.
  - (d) Maximum spacing of posts shall be 12 feet. Posts shall be of a durable material and shall be adequately anchored in the ground in accordance with good building practices. Wood posts shall be treated.
  - (e) In agricultural districts, a proper fence may be constructed on the property line providing all adjoining parties agree to said fence and said fence is constructed in accordance with State law.

(f) Temporary fences may be erected in various places if properly maintained. Such fences include snow protection fences, fences protecting construction and fences temporarily protecting hazardous locations.

(g) Security fences are permitted on property lines in all districts, except residential districts, but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing. (2300 04/14/2009)

(h) The smooth-finished side of the fence must face neighboring properties or public rights-of-way, rather than the fenced property. All structural members are to be on the interior side of the fence, facing the property of the fence owner. (2454 01/24/2017)

**14.19 UNSAFE BUILDINGS.** Whenever the Building Inspector finds any building or part thereof within the City to be, in his judgment, so old, dilapidated or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, he shall order the owner to raze and remove it at the owner's option. Such order and proceedings shall be carried out in the manner prescribed for the razing of buildings in §66.05, Wis. Stats. Where the public safety requires immediate action, the Building Inspector shall enter upon the premises with such assistance as may be necessary, and cause the building or structure to be made safe or to be removed, and the expenses of such work may be recovered by the City in an action against the owner or tenant.

**14.20 MOVING BUILDINGS.** See Ch. 8 of this Code.

**14.21 DISCLAIMER ON INSPECTIONS.** The purpose of the inspections under this code is to improve the quality of housing in the City. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons, a disclaimer shall be included in each inspection report as follows: "The findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied."

**14.22 VIOLATIONS AND PENALTY.**

(1) **FORFEITURE ACTION.** Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter shall be subject to a penalty as provided in §25.04 of this Code. The

Building Inspector shall promptly report all such violations to a police officer, and a police officer shall issue a citation to the violator. Every day a violation occurs shall constitute a separate offense.

- (2) **ACTION TO ABATE.** Any building or structure hereafter erected, enlarged, altered, repaired or moved, or any use hereafter established, in violation of the provisions of this chapter shall be deemed an unlawful building, structure or use. The Building Inspector shall promptly report all such violations to the City Attorney, who shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use, or to cause such building, structure or use to be removed and may also be subject to a penalty as provided in §25.04 of this Code. In any such action, the fact that a permit was issued shall not constitute a defense. Compliance with the provisions of this chapter may also be enforced by injunctive order at the suit of the owner or owners of any real estate within the jurisdiction of this chapter.

**SUBCHAPTER II: CONSTRUCTION SITE  
EROSION CONTROL CODE** (1626  
10/08/91, 2281 05/27/08, 2432 09/08/15)

**14.23 AUTHORITY.**

- (1) This ordinance is adopted under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under §62.23, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in §62.234 Wis. Stats., §62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Common Council hereby designates the Building Inspector or City Engineer 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 §§281.16 and 283.33, Wis. Stats.

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

**14.23.1 FINDINGS OF FACT.** The 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 City of Baraboo.

**14.23.2 PURPOSE.** It is the purpose of this ordinance to maintain 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 Baraboo.

**14.23.3 APPLICABILITY AND JURISDICTION.**

- (1) **APPLICABILITY.**
- (a) Except as provided under Sub. (b), this ordinance applied to any construction site as defined under Sec. 14.24 (6):
- (b) This ordinance does not apply to the following:
1. Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads with a residential or industrial development.
  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 Ch. 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 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, as determined by the Building Inspector or City Engineer, 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, or that increases water pollution by scouring or the transportation of particulates.
- (2) JURISDICTION. This ordinance applies to land disturbing construction activities on lands within the boundaries and jurisdiction of the City of Baraboo, and, optionally to the public and private lands subject to extraterritorial review under §§236.45(2) and (3), Wis. Stats.
  - (3) EXCLUSIONS. This ordinance is not applicable to activities conducted by a state agency, as defined under §227.01 (1), Wis. Stats.

**14.24 DEFINITIONS**

- (1) ADMINISTERING AUTHORITY means a governmental employee, or a regional planning commission empowered under §62.234, Wis. Stats., that is designated by the Common Council to administer this ordinance.
- (2) AGRICULTURAL FACILITIES AND PRACTICES has the meaning in §281.16(1), Wis. Stats.
- (3) 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.
- (4) BUSINESS DAY means a day the office of the Building Inspector or City Engineer is routinely and customarily open for business.
- (5) CEASE AND DESIST ORDER means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the City of Baraboo.
- (6) 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. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.

- (7) DESIGN STORM means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (8) DIVISION OF LAND means the creation from one parcel of one or more parcels or building sites, regardless of size, where such creation occurs at one time or through successive partition within a 5-year period.
- (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 BODY means town board of supervisors, county board of supervisors, Common Council, village board of trustees or village 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) LANDOWNER means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.
- (16) MEP or MAXIMUM EXTENT PRACTICABLE means a level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with Sec. 14.25 of this ordinance.
- (17) PERFORMANCE STANDARD means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (18) PERMIT means a written authorization made by the Building Inspector or City Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (19) POLLUTANT has the meaning given in §283.01 (13), Wis. Stats.
- (20) POLLUTION has the meaning given in §281.01 (10), Wis. Stats.
- (21) RESPONSIBLE PARTY means the landowner or other entity performing services to meet the requirements 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) SILVICULTURE ACTIVITY means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (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 Building Inspector or City Engineer 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) TRANSPORTATION FACILITY means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under §85-095(1)(b), Wis. Stats. Transportation Facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to §281.33, Wis. Stats.
- (29) WATERS OF THE STATE includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all 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 this state or its jurisdiction.

**14.25 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.**

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the [administering authority]’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

**14.26 TECHNICAL STANDARDS.**

All BMPs required for compliance with this ordinance shall meet design criteria, standards and specifications based on any of the following:

- (2) DESIGN GUIDANCE AND TECHNICAL STANDARDS identified or

developed by the Wisconsin Department of Natural Resources under Subch. V of Ch. NR 151, Wis. Adm. Code.

- (3) SOIL LOSS prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and period of disturbance.
- (4) TECHNICAL STANDARDS and methods have been approved by the Building Inspector or City Engineer.

**14.27 PERFORMANCE STANDARDS FOR CONSTRUCTION SITE UNDER ONE ACRE.**

- (1) RESPONSIBLE PARTY. The responsible party shall comply with this section.
- (2) EROSION AND SEDIMENT CONTROL PRACTICES. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
  - (a) The deposition of soil from being tracked onto streets by vehicles.
  - (b) The discharge of sediment from disturbed areas into on-site storm water inlets.
  - (c) The discharge of sediment from disturbed areas into adjacent waters of the state.
  - (d) The discharge of sediment from drainage ways that flow off the site.
  - (e) The discharge of sediment by dewatering activities.
  - (f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
  - (g) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. 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 subdivision.

- (3) LOCATION. The BMPs shall be so located that treatment occurs prior to runoff entering waters of the state.
- (4) IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:
  - (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
  - (b) Erosion and sediment control practices shall be maintained until final stabilization.
  - (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
  - (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
  - (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

**14.27.1 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES OF ONE ACRE OR MORE.**

- (1) RESPONSIBLE PARTY. The responsible party shall comply with this section and implement the Erosion and Sediment Control Plan developed in accordance with Sec. 14.28.1.
- (2) EROSION AND SEDIMENT CONTROL PLAN. A written site-specific Erosion and Sediment Control Plan shall be developed in accordance with Sec. 14.28.1 and implemented for each construction site.
- (3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The Erosion and Sediment Control Plan required under sub. (2) shall include the following:

(a) EROSION AND SEDIMENT CONTROL PRACTICES.

Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

1. The deposition of soil from being tracked onto streets by vehicles.
2. The discharge of sediment from disturbed areas into on-site storm water inlets.
3. The discharge of sediment from disturbed areas into adjacent waters of the state.
4. The discharge of sediment from drainage ways that flow off the site.
5. The discharge of sediment by dewatering activities.
6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
7. The discharge of sediment from erosive flows at outlets and in downstream channels.
8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. 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 subdivision.
9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

(b) SEDIMENT PERFORMANCE STANDARDS. In addition to the erosion and sediment control practices under par. (a), the following erosion and sediment control practices shall be employed:

1. BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
2. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
3. Notwithstanding subd. 1., if BMPs cannot be designed and implemented to meet the sediment performance standard, the Erosion and Sediment Control Plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

(c) PREVENTIVE MEASURES.

The Erosion and Sediment Control Plan shall incorporate all of the following:

1. Maintenance of existing vegetation,

especially adjacent  
to surface waters  
whenever  
possible.

2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
4. Development of spill prevention and response procedures.

(d) LOCATION. The BMPs used to comply with this section shall be located so that treatment occurs prior to runoff entering waters of the state.

(4) IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:

- (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the Erosion and Sediment Control Plan developed in Sec. 14. 27.1(2).
- (b) Erosion and sediment control practices shall be maintained until final stabilization.
- (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

#### 14.28 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 Building Inspector or City Engineer.

(2) PERMIT APPLICATION AND FEES. At least one responsible party that will 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 Sec. 14.28.1 and shall pay an application fee as set by the Building Inspector or City Engineer and as shown in the Official Fee Schedule. By submitting an application, the applicant is authorizing the Building Inspector or City Engineer to enter the site to obtain information required for the review of the Erosion and Sediment Control Plan.

(3) PERMIT APPLICATION REVIEW AND APPROVAL. The Building Inspector or City Engineer shall review any permit application that is submitted with an Erosion and Sediment Control Plan, and the required fee. The following approval procedure shall be used:

(a) Within 45 business days of the receipt of a complete permit application, as required by Sub. (2), the Building Inspector or City Engineer 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 Erosion and Sediment Control Plan are approved, the Building Inspector or City Engineer shall issue the permit.

(c) If the permit application or Erosion and Sediment Control Plan is disapproved, the Building Inspector or City Engineer shall state in writing the reasons for disapproval.

- (d) The Building Inspector or City Engineer may request additional information from the applicant. If additional information is submitted, the Building Inspector or City Engineer shall have 30 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 Building Inspector or City Engineer to inform the permit applicant of a decision within 45 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 Building Inspector or City Engineer may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved Erosion and Sediment Control Plan and any permit conditions.
- (5) PERMIT REQUIREMENTS. All permits shall require the responsible party to:
- (a) Notify the Building Inspector or City Engineer within 48 hours of commencing any land disturbing construction activity.
  - (b) Notify the Building Inspector or City Engineer of completion of any BMPs within 14 days after their installation.
  - (c) Obtain permission in writing from the Building Inspector or City Engineer prior to any modification pursuant to Sec. 14.28.1(3) of the Erosion and Sediment Control Plan.
  - (d) Install all BMPs as identified in the approved Erosion and Sediment Control Plan.
  - (e) Maintain all road drainage systems, storm water drainage systems, BMPs, and other facilities identified in the Erosion and Sediment Control 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 inspection 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 install additional BMPs as necessary, and document these activities in an inspection 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 Building Inspector or City Engineer to enter the site for the purpose of inspecting compliance with the Erosion and Sediment Control Plan or for performing any work necessary to bring the site into compliance with the Erosion and Sediment Control Plan at the construction site.
- (6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by Building Inspector or City Engineer in addition to the requirements set forth in Sub. (5), where needed to assure compliance with the performance standards in Sec. 14.27 or 14.27.1.
- (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 Building Inspector or City Engineer may extend the period one or more times for up to an additional 180 days. The Building Inspector or City Engineer 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.
- 14.28.1 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.**
- (1) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under Sec. 14.26(1)(c), an Erosion and Sediment Control Plan Statement shall be prepared. This statement shall be submitted to the Building Inspector or City Engineer. The Erosion and Sediment Control Plan Statement shall briefly

describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the Erosion and Sediment Control Plan Statement.

(2) EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS.

(a) Preparation and Submission. An Erosion and Sediment Control Plan shall be prepared and submitted to the Building Inspector or City Engineer.

(b) Performance Standards. The Erosion and Sediment Control Plan shall be designed to meet the performance standards in Sec 14.27 or 14.27.1 and other requirements of this ordinance.

(c) Pollution. 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 description of the intended sequence of major land disturbing construction activities for major portions of the construction 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. Calculations to show compliance with the performance standard of Sec. 14.27.1(3)(b).

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

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

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

(d) Site Map. The Erosion and Sediment Control Plan shall include a site map. This 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 Erosion Control and Sediment Plan.
6. Location of areas where stabilization BMPs will be employed.
7. Areas that will be vegetated following land disturbing construction activities.
8. Area(s) and location of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
9. Area(s) use for infiltration of post-construction storm water runoff.
10. An alphanumeric or equivalent grid overlying the entire construction site map.

(e) Controls and Measures. Each Erosion and Sediment Control Plan shall include a description of appropriate controls and measures that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The Erosion and Sediment Control Plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the Erosion and Sediment Control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:

1. Description of interim and permanent stabilization practices, including a BMP implementation schedule. The Erosion and Sediment Control Plan 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 Building Inspector or City Engineer, structural measures shall be installed on upland soils.
3. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
4. Trapping of sediment in channelized flow.
5. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
6. Protection of downslope drainage inlets where they occur.
7. Minimization of tracking at all vehicle and equipment entry and exit locations on the construction site.
8. Clean up of off-site sediment deposits.
9. Proper disposal of building and waste materials.
10. Stabilization of drainage ways.
11. Installation of permanent stabilization practices as soon as possible after final grading.
12. Minimization of dust to the maximum extent practicable.

(f) Velocity Dissipation Devices. 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.

(3) **EROSION AND SEDIMENT CONTROL PLAN AMENDMENTS.** The applicant shall amend the Erosion and Sediment Control 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 Erosion and Sediment Control Plan.
- (b) The actions required by the Erosion and Sediment Control Plan fail to reduce the impacts of pollutants carried by construction site runoff.
- (c) The Building Inspector or City Engineer notifies the applicant of changes needed in the Erosion and Sediment Control Plan.

**14.28.2 FEE SCHEDULE.** The fees referred to in other sections of this ordinance shall be **adopted by the City of Baraboo Common Council** and may from time to time be modified by resolution. A schedule of the fees shall be available for review in City Hall.

**14.29 INSPECTION.** If land disturbing construction activities are occurring without a permit required by this ordinance, the Building Inspector or City Engineer may enter the land pursuant to the provisions of §§66.0119(1), (2), and (3), Wis. Stats.

**14.30 ENFORCEMENT.**

- (1) The Building Inspector or City Engineer may post a stop work order if any of the following occurs:
  - (a) Land disturbing construction activity regulated under this ordinance is occurring without a permit.
  - (b) The Erosion and Sediment Control Plan s not being implemented in a good faith.
  - (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 Erosion and Sediment Control Plan or permit conditions, the Building Inspector or City Engineer may revoke the permit.

(3) If the responsible party, where no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the Building Inspector or City Engineer, or if a responsible party violates a stop work order posted under Sub. (1), the Building Inspector or City Engineer may request the City Attorney to obtain a cease and desist order in any court with jurisdiction.

(4) The Building Inspector or City Engineer may retract the stop work order issued under Sub. (1) or the permit revocation under Sub. (2).

(5) After posting a stop work order under Sub. (1), the Building Inspector may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Building Inspector or City Engineer may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by or at the direction of the Building Inspector or City Engineer, plus interest at the rate authorized by the Building Inspector or City Engineer 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 penalty as provided in §25.04 of this code and 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.

**14.31 APPEALS.**

(1) **BOARD OF ZONING APPEALS.** The board of zoning appeals created pursuant to Sec. 1.17 of the city's ordinance pursuant 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 Building Inspector or City Engineer in administering this ordinance except for cease and desist orders obtained under Sec. 14.30(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 Zoning Appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the City of Baraboo affected by any decision of the Building Inspector or City Engineer.

**14.32 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.

**14.33 EFFECTIVE DATE.** This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Common Council of the City of Baraboo on the 25<sup>th</sup> day of August, 2015.

**SUBCHAPTER III: HOUSING CODE**

**14.34 PURPOSE AND INTENT.** The City has determined that there are or may be dwelling structures which are so dilapidated, unsafe, dangerous, unhygienic or unsanitary as to constitute a menace to the health and safety of the people of the City. The purpose of this subchapter is to establish minimum standards governing the condition and maintenance of dwellings; establish minimum standards governing supplied utilities and facilities and other physical conditions essential to make dwellings safe, sanitary and fit for human habitation; establish minimum standards governing the condition of dwellings offered for rent; fix certain responsibilities of owners and occupants of dwellings, and the condemnation of dwellings unfit for human habitation; coordinate the activities of the Building Inspector; fix penalties for violations and fix a time when the same shall take effect.

**14.35 DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this subchapter:

- (1) **ACCESSORY BUILDING** means any detached building or structure not used as a dwelling unit, but whose use is incidental to that of the principal building and which is located on the same lot or parcel.

- (2) **BASEMENT** means a space of full story height below the first floor which is not designated or used primarily for year-around living accommodations. Space, partly below the grade, which is designed and finished as habitable space is not basement space.
- (3) **BUILDING INSPECTOR** means the Building Inspector of the City or his authorized representative.
- (4) **CELLAR** means a portion of a building located partly or wholly underground, having 2/3 or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (5) **DWELLING** means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided temporary housing shall not be regarded as a dwelling.
- (6) **DWELLING UNIT** means any room or group of rooms located within a dwelling, forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking and eating.
- (7) **EXTERMINATION** means the control and elimination of insects, rodents, or other pests by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping, or by any other recognized, legal pest elimination methods approved by the Building Inspector.
- (8) **GARBAGE** means the animal and vegetable waste resulting from the handling, preparing, cooking and consuming of food.
- (9) **HABITABLE ROOM** means a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets and store spaces.
- (10) **INFESTATION** means the presence, within or around a dwelling, of any insects, rodents or other pests.
- (11) **MULTIPLE DWELLING** means any dwelling containing more than two dwelling units.
- (12) **OCCUPANT** means any person, over one year of age, living sleeping, cooking, eating

- in, or having actual possession of a dwelling unit or rooming unit.
- (13) OPERATOR means any person who has charge or care of a building, or part thereof, in which dwelling units or rooming units are offered for rent.
- (14) OWNER means any person who, alone, jointly or severally:
- (a) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; provided, whenever the dwelling or dwelling unit is subject to conditional sales contract, lease with option to purchase, or any other form of written contract under the terms of which any person is entitled to a conveyance of legal title upon payment of a specified sum, "owner" shall mean the person who shall have such a contractual right or equitable title, rather than the person holding the legal title; or
- (b) Shall have charge or care of any dwelling or dwelling unit, as owner, agent of the owner, as personal representative, administrator, trustee, receiver or guardian of the estate of the owner. Any person representing the owner shall comply with the provisions of this subchapter and of the rules and regulations adopted pursuant thereto, as if he were the owner. Any person acting as the agent of the owner shall not be construed to be the owner within the terms of this subchapter, but shall be bound to notify the owner, by means of a registered letter addressed to the owner at his last known address, of any order or notice to be issued by the Building Inspector relating to the property of the owner.
- (15) PLUMBING means all of the following supplied facilities and equipment gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washers, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.
- (16) RUBBISH means combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.
- (17) SUPPLIED means paid for, furnished, or provided by or under the control of the owner or operator.
- (18) TEMPORARY HOUSING means any tent, trailer, or other structure used for human shelter designated to be transportable which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.
- (19) MEANING OF CERTAIN WORDS. Whenever the words "dwelling", "dwelling unit", or "premises" are used in this subchapter, they shall be construed as though they were followed by the words "or any part thereof."
- (20) Except for those terms specifically defined in this sub-chapter, the definitions set forth in the State Building Code, State Plumbing Code, and State Electrical Code, which are adopted by reference in Chs. 14, 15 and 16, respectively, of this Code, are hereby adopted by reference.
- 14.36 INSPECTION OF DWELLINGS, DWELLING UNITS, ACCESSORY BUILDINGS, NURSING UNITS, HOTEL UNITS, AND PREMISES.**
- (1) INSPECTION BY BUILDING INSPECTOR.
- (a) The Building Inspector may make inspections to determine the condition of dwellings, dwelling units, accessory buildings, nursing units, hotel units, and premises located within the City to safeguard the health and welfare of the occupants of dwellings and the general public.
- (b) For the purpose of making such inspections, the Building Inspector may enter, examine, and survey, at proper times after due notice, all dwelling units, accessory buildings, and premises. The owner or the person in charge shall give the Building Inspector access to such dwelling unit, accessory building and its premises at proper time after due notice, for such inspection, examination, and survey.
- (2) ACCESS BY OWNER OR OPERATOR. Every occupant of a dwelling, dwelling unit, nursing unit, hotel unit or premises shall give the owner or operator thereof, or his agent or employee access to any part of such dwelling,

dwelling unit, accessory building, nursing unit, hotel unit, or its premises at all reasonable times for maintenance, making repairs or alterations as necessary to effect compliance with the provisions of this subchapter or with any lawful rule or regulation adopted or any lawful notice or order issued pursuant to the provisions of this subchapter.

**14.37 ENFORCEMENT; SERVICE OF NOTICES AND ORDERS; HEARINGS.**

- (1) SERVICE OF NOTICES. Whenever the Building Inspector determines that there has been a violation or that there are reasonable grounds to believe that there has been a violation of this subchapter or of any rule or regulation adopted pursuant thereto, he shall give notice of such violation or alleged violation to the person responsible therefore. Such notice shall:
  - (a) Be in writing;
  - (b) Include a description of the real estate sufficient for identification;
  - (c) Include a statement of the reason why it is being issued;
  - (d) Allow a reasonable time for the performance of any act it requires;
  - (e) Be served upon the owner, operator, or the occupant; provided such notice shall be deemed to be properly served upon such owner, operator or occupant if a copy thereof is delivered to him personally, or sent by certified mail return receipt requested to his last known address, or posted in a conspicuous place in or about the dwelling affected by the notice or if he is served by any other method authorized or required under State laws. Such notice may contain an outline of remedial action which, if taken, shall effect compliance with the provisions of this subchapter and with rules and regulations adopted pursuant hereto.
- (2) PETITION FOR HEARING; OPPORTUNITY TO BE HEARD; ORDER IF NO PETITION. Any notice served pursuant to this sub-chapter shall automatically become an order if a written petition for a hearing is not filed in the office of the Building Inspector within 10 days after such notice is served. Any person affected by any notice that has been issued in connection with the enforcement of this subchapter, or any rule or regulation adopted pursuant hereto may request and shall be granted a hearing on the matter before the Zoning Board of Appeals provided a written petition requesting such hearing and setting forth a statement of the grounds therefore shall be filed in the office of the Building Inspector within 10 days after the day the notice was served. Upon

receipt of such petition, the Building Inspector shall transmit to the Zoning Board of Appeals the petition and all papers constituting the record upon which the action appealed from was taken. The Board shall set a time and place for the hearing of the Appeal and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and show cause why such notice should not be complied with.

- (3) BOARD OF ZONING APPEALS TO SUSTAIN, MODIFY OR WITHDRAW NOTICES. After the hearing on the appeal the Board of Zoning Appeals shall sustain, modify or withdraw the notice depending upon its finding as to whether the provisions of this subchapter and the rules and regulations adopted pursuant hereto have been complied with. If the Board sustains or modifies such notice, it shall be deemed an order.
- (4) REVIEW BY CIRCUIT COURT BY CERTIORARI. The proceedings at a hearing on an appeal under this sub-chapter, including the findings and decision of the Board of Zoning Appeals, shall be reduced to writing, and entered as a matter of public record in the office of the Board. Such record shall also include a copy of every notice or order issued in connection with the matter. A copy of the written decision of the Board shall then be served in the manner prescribed under §§14.37(1)(e) on the person who filed the petition for hearing. Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer, or any officer, department, board or bureau of the City, may seek judicial relief therefrom by having the decision reviewed by certiorari as provided by law.
- (5) ISSUANCE OF ORDER WHEN EMERGENCY EXISTS. Whenever the Building Inspector finds that an emergency exists which requires immediate action to protect the public, he may, without notice or hearing, issue an order stating the existence of an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this subchapter, such order shall be effective immediately, but upon petition to the Building Inspector a hearing shall be afforded as soon as possible, in the manner provided in sub. (2). After such hearing, depending upon the findings as to whether the provisions of this subchapter have been complied with, the Board shall continue such order in effect, modify it, or revoke it.

**14.38 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.** No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for living, sleeping, cooking and/or eating

meals therein which does not comply with the following requirements:

- (1) **KITCHEN SINK REQUIRED.** Every dwelling unit shall contain a kitchen sink and laundry tray in good working condition, properly connected to a water and sanitary sewer system approved by the Building Inspector's office.
- (2) Every dwelling unit shall contain a room, separate from the habitable rooms, which affords privacy to a person which is equipped with a flush water closet, a lavatory basin, bathtub or shower and the necessary accessories therefore in good working condition, properly connected to hot and cold water lines and sanitary sewer system approved by the Building Inspector.
- (3) Every kitchen sink and lavatory basin shall be supplied with adequate rubbish storage facilities.
- (4) **RUBBISH FACILITIES.** Every dwelling unit shall be supplied with adequate rubbish storage facilities.
- (5) **GARBAGE DISPOSAL FACILITIES.** Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers.
- (6) **EXITS.** Every dwelling unit shall have safe, unobstructed means of egress leading to safe, open space at ground level, as required by State and City laws.

**14.39 MINIMUM STANDARDS FOR LIGHT, VENTILATION, AND HEATING.** No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for living therein which does not comply with the following requirements:

- (1) **REQUIRED WINDOW AREA.** Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10 percent of the floor area of such room.
- (2) **ADEQUATE VENTILATION REQUIRED.** Every habitable room shall have at least one window or skylight that can easily be opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 4 percent of the floor area, except where there is supplied a mechanical device affording adequate ventilation per current Federal Housing Administration Regulations.

- (3) **LIGHT AND VENTILATION REQUIREMENTS FOR BATHROOMS AND TOILET ROOMS.** Every bathroom and toilet room shall comply with the light and ventilation requirements for habitable rooms contained in subsection (1) and (2), except no window or skylight shall be required in adequately ventilated bathrooms and toilet rooms equipped with an adequate ventilation system which is kept in continuous operation.
- (4) **HEATING FACILITIES.** Every dwelling shall have heated facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein to a temperature of at least 70° F 30" above floor level.
- (5) **LIGHTING OF PUBLIC HALLS AND STAIRWAYS.** Every public hall and stairway in every multiple dwelling shall be adequately lighted in conformity with the current National Electrical Code and Federal Housing Administration Regulations.
- (6) **BASEMENTS AND CELLARS.** Every basement shall receive natural and artificial light and shall be ventilated according to current Federal Housing Administration requirements or equal minimum. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be screened with a wire mesh of not less than #16 or other device as will effectively prevent their entrance.

**14.40 RESPONSIBILITIES OF OWNERS RELATING TO THE MAINTENANCE OF DWELLINGS AND DWELLING UNITS.** No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit or portion thereof for living therein, which does not comply with the following requirements:

- (1) **MAINTENANCE OF FOUNDATIONS, EXTERIOR WALLS, ROOFS.** Every foundation, exterior wall and roof shall be reasonably weather-tight, watertight, rodent-proof and insect-proof and shall be kept in a reasonably good state of repair.
- (2) **MAINTENANCE OF INTERIOR WALLS, FLOORS, CEILINGS.** Every interior partition, wall, floor, and ceiling shall be capable of affording privacy, kept in a reasonably good state of repair, and

maintained to permit them to be kept in a clean, sanitary condition.

- (3) **MAINTENANCE OF WINDOWS, EXTERIOR DOORS, BASEMENT HATCHWAYS.** Every window, exterior door, and basement hatchway shall be reasonably weather-tight and rodent-proof, kept in reasonably good working condition and reasonably good state of repair.
- (4) **MAINTENANCE OF STAIRWAYS AND PORCHES.** Every inside and outside stairway, porch and appurtenance thereto shall be constructed to be reasonably safe to use and capable of supporting the load that normal use may cause to be placed thereon; and kept in sound condition and in a reasonably good state of repair.
- (5) **MAINTENANCE OF SUPPLIED PLUMBING FIXTURES.** Every supplied plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition.
- (6) **MAINTENANCE OF BATHROOM AND TOILET ROOM FLOORS.** Every toilet room floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water, permitting such floor to be kept in a clean, sanitary condition.
- (7) **SAFE AND EFFECTIVE FUNCTIONING OF SUPPLIED FACILITIES.** Every supplied facility, piece of equipment, or utility which is required under this subchapter shall be so constructed or installed that it will function properly and shall be maintained in reasonably good working condition.
- (8) **DISCONTINUANCE OF REQUIRED SERVICES, FACILITIES, EQUIPMENT, OR UTILITIES.** No owner or operator shall cause any service facility, equipment, or utility which is required to be supplied under the provisions of this subchapter to be removed from, or shutoff from, or discontinued for any occupied dwelling or dwelling unit let or occupied by him, except for such temporary interruption as may be necessary while actual repairs, replacements, or alterations are being made.
- (9) **VACANT DWELLING UNITS TO BE CLEAN AND SANITARY BEFORE BEING LET FOR OCCUPANCY.** No owner shall occupy or rent to any other person for occupancy or allow any other person to occupy any vacant dwelling unit

unless it is reasonably clean, sanitary, and complies with all provisions of this subchapter and all rules and regulations adopted pursuant thereto.

**14.41 MINIMUM SPACE, USE, AND LOCATION REQUIREMENTS.** No person shall occupy or let to another for occupancy and dwelling any unit, for living therein that does not comply with the following requirements:

- (1) **MINIMUM FLOOR AREA FOR DWELLING UNIT.** Every dwelling unit shall contain a minimum gross floor area of not less than 150 square feet for the first occupant, 100 square feet for the second occupant, and 75 square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.
- (2) **MINIMUM HOT WATER REQUIREMENTS.** Every dwelling unit shall be supplied with water heating facilities which are installed in an approved manner, properly maintained and capable of heating water to such a temperature to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower, and laundry facility or other similar units, at a temperature of not less than 130° F when needed.
- (3) **ELECTRICAL SERVICE; NUMBER OF ELECTRICAL OUTLETS AND/OR FIXTURES.** While there is electric service available to the buildings, every habitable room of a dwelling unit shall contain at least two separate remote outlets, one of which may be a ceiling or wall-type electric light fixture. Every public hall, bathroom, laundry room or furnace room shall contain at least one electric light fixture. In addition, every bathroom and laundry room shall be provided with at least one electric outlet.
- (4) **SCREEN REQUIREMENTS.** From June 1 to October 1, in every dwelling unit for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoors shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoors, used or intended to be used for ventilation, shall likewise be supplied with screens installed.
- (5) **FLOOR AREA FOR SLEEPING ROOMS.** In every dwelling unit of two or more rooms, occupied for sleeping purposes by one occupant shall contain at

least 80 square feet of floor space, and every room occupied by more than one occupant shall contain at least 40 square feet of space for each occupant thereof over the age of 12 years and at least 30 square feet for each occupant under the age of 12 years.

- (6) **ARRANGEMENT OF SLEEPING, BATH AND TOILET ROOMS.** No dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or toilet room intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room, bathroom or a toilet room.
- (7) **MINIMUM CEILING HEIGHT.** At least  $\frac{1}{2}$  of the floor area of every habitable room shall have a ceiling height of at least 7'6"; and the floor area of that part of any room where the ceiling height is less than 5 feet shall not be considered part of the floor area in computing the total floor area to determine the maximum permissible occupancy thereof.
- (8) **CELLAR SPACE NOT HABITABLE.** No cellar space shall be used as a habitable room or dwelling unit.
- (9) **BASEMENT SPACE MAY BE HABITABLE.** No basement space shall be used as a habitable room or dwelling unit unless:
  - (a) The floor and walls are of waterproof and damp-proof construction;
  - (b) The total of window area in each room is equal to at least the minimum window area sizes as required in §§14.39(1);
  - (c) Such required minimum window area is located entirely above the grade of the ground adjoining such window area; and
  - (d) The total of openable window area in each room is equal to at least the minimum as required under §§14.39(2), except where there is supplied some other approved device affording adequate ventilation.
- (10) **OCCUPANTS TO HAVE ACCESS TO SANITARY FACILITIES.** Every occupant of every dwelling shall have unrestricted access to a kitchen sink, toilet, bath and lavatory basin.

#### **14.42 RESPONSIBILITIES OF OCCUPANTS RELATING TO THE MAINTENANCE OF DWELLINGS AND DWELLING UNITS.**

- (1) Every owner of a dwelling containing four or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (2) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.
- (3) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish containers.
- (4) Every occupant of a dwelling or dwelling unit shall dispose of his garbage and any other organic waste which might provide food for rodents in a clean, sanitary manner by placing it in garbage disposal facilities or containers for all dwelling units in a dwelling containing more than four dwelling units and for all dwelling units located on premises where more than four dwelling units share the same premises. In all other cases, the occupant shall furnish such facilities or containers.
- (5) Every occupant of a dwelling or dwelling unit shall hang all screens and double or storm doors and windows whenever required under the provisions of this subchapter or of any rule or regulation adopted pursuant thereto, except where the owner has agreed to supply such service.
- (6) Every occupant of a dwelling containing a single dwelling unit shall exterminate any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- (7) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean

and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

**14.43 RESPONSIBILITIES OF OWNERS AND OCCUPANTS RELATING TO THE MAINTENANCE OF ACCESSORY BUILDINGS.** Every owner and/or occupant of an accessory building shall maintain the foundation, exterior walls, roof, windows and doors in a reasonably weather tight and waterproof condition and in a reasonably good state of repair.

**14.44 CONDEMNATION OF UNFIT DWELLINGS AND DWELLING UNITS, LEGAL PROCEDURE OF CONDEMNATION AND PLACARDING FOR HUMAN HABITATION.** The designation of dwellings or dwelling units as unfit for human habitation and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

- (1) **CONDEMNATION OF DWELLINGS AND DWELLING UNITS AS UNFIT FOR HUMAN HABITATION.** Any dwelling or dwelling unit which the Building Inspector shall find to have any of the following defects shall be condemned as unfit for human habitation:
  - (a) One which is damaged, decayed, dilapidated, unsanitary, difficult to heat, unsafe, or vermin infested, creating a hazard to the health or welfare of the occupants or the public, or
  - (b) One which lacks illumination, ventilation or sanitary facilities adequate to protect the health or welfare of the occupants or the public, or
  - (c) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or welfare of the occupants or the public.

Any dwelling or dwelling unit may be condemned as unfit for human habitation by the Building Inspector if the owner or occupant failed to comply with any order based on the provisions of this subchapter or rules or regulations adopted pursuant hereto; provided, such dwelling or dwelling unit is, in the opinion of the Building Inspector, unfit for human habitation.

(2) **NOTICE TO OWNER OF CONDEMNATION AND INTENT TO PLACARD.** Whenever the Building Inspector has condemned a dwelling or dwelling unit as unfit for human habitation, he shall give notice to the owner of such condemnation and of his intent to placard the dwelling unit as unfit for human habitation. Such notice shall:

- (a) Be put in writing;
- (b) Include a description of the real estate sufficient for identification;
- (c) Include a statement of the reason why it is being issued;
- (d) Include a description of the repairs and improvements required to bring the condemned dwelling or dwelling unit into compliance with the provisions of this section and any rules and regulations adopted pursuant hereto;
- (e) Include an explanation of the owner's right to seek modification or withdrawal of the notice by petition to the Building Inspector in accordance with the provision of §§14.37(2) and (3); and
- (f) Be served upon the owner; provided, such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to him personally or by sending a copy thereof by certified mail with return receipt requested to his last known address, or, if the certified letter with the copy is returned with a receipt showing it has not been delivered to him, by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice. Copies of all condemnation notices shall be forwarded to the Building Inspector, but failure to fulfill this notification to the Building Inspector shall not invalidate the condemnation procedure.

(3) **APPEAL OF NOTICE RELATING TO CONDEMNATION.** Any owner affected by any notice relating to the condemnation of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter before the Board of Zoning Appeals under the procedure set forth in §§14.37.

(4) **PLACARDING OR CONDEMNING DWELLINGS AND DWELLING UNITS AS UNFIT FOR HUMAN HABITATION.** After the condemnation notice which is required under sub. (2) has resulted in an order in accordance with §§14.37, the Building

Inspector shall placard the affected dwelling or dwelling unit as unfit for human habitation. The Building Inspector shall post, in a conspicuous place upon the affected dwelling or dwelling unit, a placard bearing the following words: "Condemned as Unfit for Human Habitation."

- (5) **VACATION OF CONDEMNED AND PLACARDED DWELLINGS AND DWELLING UNITS.** Any dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation by the Building Inspector shall be vacated within a reasonable time as required by the Building Inspector. No owner or operator shall let to any person for human habitation and no person shall occupy any dwelling or dwelling unit which has been condemned and placarded by the Building Inspector after the date on which the Building Inspector has required the affected dwelling or dwelling unit to be vacated.
- (6) **PLACARD NOT TO BE REMOVED UNTIL DEFECTS ARE ELIMINATED.** No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall be occupied until written approval is secured from, and such placard is removed by, the Building Inspector. The Building Inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- (7) **PLACARD TO BE REMOVED ONLY BY BUILDING INSPECTOR.** No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in sub. (6).

**14.45 SUBCHAPTER DOES NOT IMPAIR AUTHORITY OF BUILDING INSPECTOR AND/OR CITY TO ACT ON NUISANCES OR TO RAZE BUILDING UNDER §66.05 WIS. STATS.** Nothing in this subchapter shall be construed to impair or limit the City in defining and declaring nuisances or the Building Inspector in removing or abating nuisances by summary or other appropriate proceedings or the City and/or the Building Inspector to raze buildings within the City as authorized by Wisconsin Statutes (see §66.05, Wis. Stats).

**14.46 SUBCHAPTER DOES NOT ABROGATE PROVISIONS OF BUILDING CODE.** The provisions of this subchapter shall not abrogate the responsibility of any person to comply with any provisions of the State Building Code and the Building and Zoning Codes of the City.

**14.47 DISCLAIMER ON INSPECTIONS.** The purpose of the inspections under this code is to improve the quality of housing in the City. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons, a disclaimer shall be included in each inspection report as follows: "The findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied."

**14.48 PENALTIES.** Any person violating any order of the Building Inspector based on the provisions of this subchapter or any provisions of any rule or regulation adopted by this Building Inspector pursuant to authority granted by this subchapter, shall upon conviction thereof, be subject to a forfeiture as provided by §25.04 of this Municipal Code. Each violation and each day a violation continues or occurs shall constitute a separate offense. After conviction and punishment for violation of such order of the Building Inspector based upon the provisions of this subchapter or any provisions of any rule or regulation adopted by the Building Inspector, if such person continues to violate such order, such person shall be liable for further prosecution, conviction, and punishment upon such order, without the Building Inspector issuing a new order, until such order has been complied with.

**14.49 ACTION TO ABATE.** Upon request by the Building Inspector, the City Attorney shall be empowered to bring an action to enjoin the use and/or occupancy of a dwelling unit, dwelling, accessory building or other building covered by this sub-chapter alleged to be in violation of this sub-chapter and such action may include the penalties as provided in §14.47.

**14.50 thru 14.60 Reserved**

**SUBCHAPTER IV: STORMWATER MANAGEMENT** (2037 11/28/2000, 2280 05/13/2008)

**14.61 AUTHORITY.**

- (1) This ordinance is adopted by the Common Council under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under §62.23, Wis. Stats., that relate to stormwater management regulations. Except as otherwise specified in §62.234, Wis. Stats., §62.23, Wis. Stats., applies to

- this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
  - (3) The Baraboo Common Council hereby designates the City Engineer to administer and enforce the provisions of this Ordinance, under the direction of the Public Safety Committee. The City Engineer may appoint assistants to aid in the performance of duties and may seek technical advice from the State and County agencies as to the adequacy of any proposed plan and permit application submitted to him or her.
  - (4) The requirements of this ordinance do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:
    - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under §§281.16 and 283.33, Wis. Stats.
    - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under §NR 151.004, Wis. Adm. Code.

**14.62 FINDINGS OF FACT.** The Common Council finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety, and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens, and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

- (4) Reduce the quality of groundwater by increasing pollutant loading.
- (5) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (6) Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes.
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

**14.63 PURPOSE AND INTENT.**

- (1) PURPOSE. The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare, and the aquatic environment. Specific purposes are to:
  - (a) Further the maintenance of safe and healthful conditions.
  - (b) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish, and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
  - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
  - (d) Promote the public health, safety, prosperity, and general welfare of the citizens of the City of Baraboo by conserving the soil, water, and related resources and control erosion and sedimentation.
- (2) INTENT. It is the intent of the 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 Common Council recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans

may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under §281.16, Wis. Stats., for regional storm-ater management measures and have been approved by the Common Council, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

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.

(c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to post-construction sites of any size that, in the opinion of the City Engineer, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

**14.64 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-development construction site with one or more acres of land disturbing construction activity.
2. A post-development commercial or industrial construction site with a gross aggregate area of 0.5 acres or more.

(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,

(2) JURISDICTION. This ordinance applies to post construction sites within the boundaries and jurisdiction of the City of Baraboo and, to the extent allowed by law, to lands subject to extraterritorial plat approval jurisdiction as provided by Ch. 18 of this Code if said lands are within a drainage basin or watershed that discharges stormwater into the City.

(3) EXCLUSIONS. This ordinance is not applicable to activities conducted by a state agency, as defined under §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 §281.33 (2), Wis. Stats.

**14.65 DEFINITIONS.**

(1) ADMINISTERING AUTHORITY means the City of Baraboo Engineer, empowered under §62.234, Wis. Stats., that is designated by the Common Council to administer this ordinance.

(2) AGRICULTURAL FACILITIES AND PRACTICES has the meaning given in §281.16, Wis. Stats.

(3) AGRICULTURAL LANDS are lands used for the production of food and fiber, including but not limited to, general farming, livestock, and poultry enterprises, grazing, nurseries, horticulture, viticulture, truck farming,

- forestry, sod production, cranberry production, and wild crop harvesting and includes lands used for on-site structures necessary to carry out such activities.
- (4) AVERAGE ANNUAL RAINFALL means a calendar year of precipitation, excluding snow, which is considered typical.
- (5) "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.
- (6) BUSINESS DAY means a day the office of the City Engineer is routinely and customarily open for business.
- (7) CEASE AND DESIST ORDER means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (8) CITY ENGINEER means the governmental employee designated by the governmental body to administer this Ordinance, and includes any other governmental employees who are supervised by the administrator.
- (9) CLOSED WATERSHED shall mean a drainage basin or watershed which does not discharge storm-water during a storm of twenty-four (24) hour duration and two- (2) year recurrence interval occurring over the basin with the land in its predevelopment condition.
- (10) COMBINED SEWER SYSTEM means a system for conveying both sanitary sewage and stormwater runoff.
- (11) COMMERCIAL LAND USE shall mean use of the land for the retail or wholesale of goods or services.
- (12) 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.
- (13) CONTROL PLAN is a written description approved by the City Engineer's authority, of methods for controlling sediment pollution from accelerated erosion on a development area and/or from erosion caused by accelerated runoff from a development area and controlling runoff.
- (14) CUBIC YARDS means the amount of material in excavation and/or fill measured by the method of "average end areas."
- (15) CURVE NUMBER shall mean as used in the runoff calculation methodology promulgated by the United States Soil Conservation Service National Engineering Handbook (see App. B).
- (16) DESIGN STORM means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (17) DEVELOPMENT means residential, commercial, industrial or institutional land uses, and associated roads.
- (18) 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.
- (19) 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.
- (20) EROSION means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (21) EXCEPTIONAL RESOURCE WATERS means waters listed in §NR 102.11, Wis. Adm. Code.
- (22) EXCAVATION means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.
- (23) 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.
- (24) EXISTING GRADE means the vertical location of the existing ground surface prior to excavation or filling.
- (25) FILL means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by humans to a new location and shall include the conditions resulting therefrom.

- (26) 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.
- (27) FINANCIAL GUARANTEE means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City Engineer by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.
- (28) GOVERNING BODY means the Baraboo City Council.
- (29) GRADING is altering the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
- (30) HYDROLOGIC SOIL GROUP shall mean as used in the runoff calculation methodology promulgated by the United States Soil Conservation Service National Engineering Handbook (see Appendix C).
- (31) 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.
- (32) INDUSTRIAL LAND USE shall mean exterior storage areas, loading and unloading areas, equipment washing areas or other area or surface directly associated with an industrial process or a land use activity covered under the Wisconsin Pollutant Discharge Elimination System.
- (33) IN-FILL AREA means an undeveloped area of land located within existing development.
- (34) INFILTRATION means the entry of precipitation or runoff into or through the soil.
- (35) INFILTRATION SYSTEM means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (36) KARST FEATURE means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps, or swallets.
- (37) LAND DISTURBING CONSTRUCTION ACTIVITY 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.
- (38) LAND OCCUPIER OR OCCUPIER OF LAND means any person, partnership, firm or corporation that has a fee simple interest in the land either as sole owner, as a tenant in common or a joint tenant or holds as a trustee, assignee, or holds as a land contract vendee.
- (39) LAND USERS are those who use land, individually or collectively as owners, operators, lessors, renters, occupiers who are providing a service that requires access or alterations of the land in order to perform the service, or by other arrangement which gives them the responsibility of private or public land use.
- (40) MAINTENANCE AGREEMENT means a legal document that provides for long-term maintenance of stormwater management practices.
- (41) "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.
- (42) NEW DEVELOPMENT means development resulting from the conversion

- of previously undeveloped land or agricultural land uses.
- (43) OFF-SITE means located outside the property boundary described in the permit application.
- (44) ON-SITE means located within the property boundary described in the permit application.
- (45) ORDINARY HIGH-WATER MARK has the meaning given in §NR 115.03(6), Wis. Adm. Code.
- (46) OUTSTANDING RESOURCE WATERS means waters listed in §NR 102.10, Wis. Adm. Code.
- (47) PARCEL is all contiguous lands under the ownership or control of a land occupier or land user.
- (48) PEAK FLOW is the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the predetermined storm or flood.
- (49) PERCENT FINES means the percentage of a given sample of soil, which passes through a # 200 sieve.
- (50) PERFORMANCE STANDARD means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (51) PERMIT means a written authorization made by the City Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (52) PERMITTEE means any person to whom a permit is issued under this Ordinance.
- (53) PERMIT ADMINISTRATION FEE means a sum of money paid to the City Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (54) PERSON is any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.
- (55) PERVIOUS SURFACE means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
- (56) POLLUTANT has the meaning given in §283.01(13), Wis. Stats.
- (57) POLLUTION has the meaning given in §281.01(10), Wis. Stats.
- (58) POST-CONSTRUCTION SITE means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (59) 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. For the purposes of this ordinance, predevelopment conditions shall mean land which has runoff characteristics equivalent to runoff curve numbers of: 30, 58, 71, and 78.
- (60) PREVENTIVE ACTION LIMIT has the meaning given in §NR 140.05(17), Wis. Adm. Code.
- (61) PUBLIC LANDS mean all lands that are subject to regulation by the City, including, but not limited to:
- (a) All lands owned or controlled by the City, and
  - (b) All land, within the boundaries or extraterritorial control of the City, which are owned by another unit of government if that unit of government is acting in a proprietary rather than governmental function.
- (64) RECURRENCE INTERVAL of a storm of given intensity and duration is the average period of time between storms of the same duration and equal or greater intensity.
- (65) REDEVELOPMENT means areas where development is replacing older development.
- (66) REMOVAL means cutting vegetation to the ground or stumps, complete extraction, or killing by spraying.
- (67) RESPONSIBLE PARTY means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.
- (68) RUNOFF means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

- (69) SEDIMENT is solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice, and has come to rest on the earth's surface at a different site.
- (70) SEDIMENTATION is the transportation and deposition of sediment that may ultimately degrade water quality by the presence of suspended solid particles, derived from soils by erosion or discharged into surface waters from other sources; or the deposition of water borne sediments in stream channels, lakes, reservoirs, or on floodplains, usually because of a decrease in the velocity of the water.
- (71) SEPARATE STORM SEWER means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
- (a) Is designed or used for collecting water or conveying runoff.
  - (b) Is not part of a combined sewer system.
  - (c) Is not draining to a stormwater treatment device or system.
  - (d) Discharges directly or indirectly to waters of the state.
- (72) SITE means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (73) STOP WORK ORDER means an order issued by the City Engineer which requires that all construction activity on the site be stopped.
- (74) STORM(WATER) RUNOFF is the water derived from rains falling within a tributary drainage basin, flowing over the surface of the ground or collected in channels, watercourses or conduits.
- (75) STORM SEWER is a closed conduit for conducting collected stormwater.
- (76) STORMWATER DRAINAGE FACILITY is any element in a stormwater drainage system that is made or improved by humans.
- (77) STORMWATER DRAINAGE SYSTEM is all facilities used for conducting stormwater to, through, and from a drainage area to the point of final outlet, including but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, streets and pumping stations.
- (78) STORMWATER MANAGEMENT PLAN means a comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has undergone final stabilization following completion of the construction activity.
- (79) STORMWATER MANAGEMENT SYSTEM PLAN is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (80) STRUCTURAL MEASURES are works of improvement for land stabilization to prevent erosion, sediment or runoff which includes, but are not limited to, gully control structures, grass waterways, riprap, detention basins, sediment basins, flood retention dams, diversions, lining channels with rock, concrete or other materials. Contour strip cropping is not a structural measure.
- (81) TECHNICAL STANDARD means a document that specifies design, predicted performance, and operation and maintenance specifications for a material, device or method.
- (82) 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.
- (83) 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.
- (84) TYPE II DISTRIBUTION means a rainfall type curve as established in United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- (85) WATERS OF THE STATE has the meaning given in §281.01 (18), Wis. Stats.

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

- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under Subch. V of Ch. 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 City Engineer.
- (3) In this ordinance, the following year and location has been selected as average annual rainfall: Madison, 1981 (Mar.12-Dec. 2).

14.67 **PERFORMANCE STANDARDS.**

- (1) **RESPONSIBLE PARTY.** The responsible party shall implement a post-construction stormwater management plan.
- (2) **PLAN.** A written stormwater management plan in accordance with 14.69 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 October 1, 2002, 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 October 1, 2002, 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 stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.
- (b) **Peak Discharge.**
1. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates from the post-construction site, according the following standards:
    - a. Limit peak flow rates of storm runoff after development to seventy five percent (75%) of that which would have resulted from the same storm occurring over the site with the land in its predevelopment condition, for storms of twenty-four (24) hour duration and

recurrence intervals of two (2), five (5), ten (10), and twenty-five (25) years

b. Not increase the peak flow rates of storm runoff after development to that which would have resulted from the same storm occurring over the site with the land in its predevelopment condition, for storms of twenty-four (24) hour duration and a recurrence interval of 50-years.

c. On sites where on-site detention is used for runoff control, safely contain and safely pass the runoff of a 100-year storm of any duration.

2. Predevelopment Conditions shall mean land which has runoff characteristics equivalent to runoff Curve Numbers (CN) in Table 1:

Table 1-Pre-Development Conditions  
Runoff Curve Numbers

Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	30	58	71	78

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

a. A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the 2-year, 24-hour storm event.

b. A redevelopment post-construction site.

c. An in-fill development area less than 5 acres.

(c) Runoff Volume. In the case of closed watersheds, the volume of storm runoff resulting from the ten-(10) year storm of twenty-four (24) hour duration shall not be greater after development than would have resulted from the same storm occurring over the site with the land in its pre-development condition.

(d) 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 Subs. 5. through 8.

1. For residential developments one of the following shall be met:

a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

b. Infiltrate 25% of the post-development runoff from the two-year -24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

2. For non-residential development, including commercial, industrial, and institutional development, one of the following shall be met:

a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration

- systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
- b. Infiltrate 10% of the runoff from the two-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).
  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 Sub. 8. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
  5. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:
    - a. Areas associated with tier 1 industrial facilities identified in §NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop, and parking.
    - b. Storage and loading areas of tier 2 industrial facilities identified in §NR 216.21(2) (b), Wis. Adm. Code.
    - c. Fueling and vehicle maintenance areas.
    - d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
    - e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this Sub. 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 §NR 811.16 (4), Wis. Adm. Code, or within 100 feet of a private well as specified in §NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial, and institutional land uses or regional devices for residential development.
    - h. Areas where contaminants of concern, as defined in §NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.



- d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes, and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with §NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
  - e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
  - f. In §1.a., d. and e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in §NR 103.03.
  - 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 Sub. 4.
  3. The following requirements shall be met:
    - a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
    - b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
    - c. Best management practices such as filter strips, swales, or wet detention basins that are designed to control pollutants from non-point sources may be located in the protective area.
  4. This paragraph does not apply to:
    - a. Redevelopment post-construction sites.
    - b. In-fill development areas less than 5 acres.
    - c. Structures that cross or access surface waters such as boat landings, bridges, and culverts.
    - d. Structures constructed in accordance with §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.
- (f) DRAINAGE SYSTEM. Where conditions are such that the depth to

the water table is three (3) feet or greater during at least nine (9) months of the year, the stormwater drainage system for the site shall include grassed swales for area drainage and underground perforated drainage pipe for storm runoff conveyance, except on industrial and commercial sites, or sites where the City Engineer finds the above to be impracticable.

(g) **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.

(h) **SWALE TREATMENT FOR TRANSPORTATION FACILITIES.**

1. Applicability. Except as provided in Sub. 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.

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.

2. Exemptions. The City Engineer may, consistent with water

quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:

- a. Outstanding resource waters.
- b. Exceptional resource waters.
- c. Waters listed in §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 §NR 151.004, Wis. Adm. Code, to meet water quality standards.

(4) **GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORMWATER MANAGEMENT MEASURES.** The following considerations shall be observed in managing runoff:

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

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

(5) **LOCATION AND REGIONAL TREATMENT OPTION.**

(a) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system.

(b) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction

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.
- (f) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.
- (g) The City Engineer may approve off-site management measures provided that all of the following conditions are met:
  - 1. The City Engineer determines that the post-construction runoff is

covered by a storm-water management system plan that is approved by the City of Baraboo and that contains management requirements consistent with the purpose and intent of this ordinance.

- 2. The off-site facility meets all of the following conditions:
  - a. The facility is in place.
  - b. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
  - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(h) Where a regional treatment option exists such that the City Engineer exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the City Engineer. In determining the fee for post construction runoff, the City Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(6) **ALTERNATE REQUIREMENTS.** The City Engineer has established the following stormwater management requirements more stringent than those set forth in order to provide an added level of protection for sensitive resources.

#### **14.68 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.**

(1) **PERMIT REQUIRED.** Unless specifically excluded by this Ordinance, no land occupier or land user may undertake a land disturbing activity subject to this Ordinance without receiving a permit from the City Engineer prior to commencing the proposed activity. The Building Inspector shall not issue a building permit or construction site permit involving any land disturbing activity unless and until a determination has been made by the City Engineer whether a permit is required under this subchapter. Each land occupier or land

user desiring to undertake a regulated activity subject to this ordinance shall submit to the City Engineer an application for a permit together with the appropriate fee required by the fee schedule as adopted by the City of Baraboo Common Council.

(2) PERMIT APPLICATION AND FEES.

Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the City Engineer a permit application made on a form provided by the City Engineer for that purpose.

(a) Exceptions to these requirements are as follows:

1. The owner and occupier of public lands are exempt from payment of any permit fees;
2. For its convenience, the City Engineer may enter into an agreement with public or private utilities and governmental units to waive the need for a permit for each individual land disturbing activity, if the utility or governmental unit will agree to adopt and follow a procedure for each land disturbing activity that meets all applicable standards contained in this Ordinance. Further, the agreement shall provide that in the event that a utility or governmental unit activity fails to meet the standard, the agreement shall terminate and the utility or governmental unit shall be subject to the penalties set forth herein.

(b) 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.

(c) The stormwater management plan shall be prepared to meet the requirements of 14.67 and 14.69, the maintenance agreement shall be prepared to meet the requirements of 14.70, the financial guarantee shall meet the requirements of 14.71, and fees shall be those established by the Common Council as set forth in 14.72.

(3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The City Engineer shall review any permit application that is submitted with a stormwater management plan,

maintenance agreement, and the required fee. The following approval procedure shall be used:

(a) Within 30 calendar days of the receipt of a complete permit application, including all items as required by Sub. (2), the City Engineer shall inform the applicant in writing whether the application, plan, and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(b) If the stormwater permit application, plan, and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the City Engineer shall issue the permit.

(c) If the stormwater permit application, plan or maintenance agreement is disapproved, the City Engineer shall detail in writing the reasons for disapproval.

(d) The City Engineer may request additional information from the applicant. If additional information is submitted, the City Engineer shall have 30 business days from the date the additional information is received to inform the applicant that the plan, and maintenance agreement are either approved or disapproved.

(e) Failure by the City Engineer to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) PERMIT REQUIREMENTS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the City Engineer to suspend or revoke this permit may be appealed in accordance with 14.75.

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

- (b) The responsible party shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.
  - (c) The responsible party shall notify the City Engineer at least 2 business days before commencing any work in conjunction with the stormwater management plan, and within ten business days upon completion of the stormwater management practices. If required as a special condition under Sub. (5), the responsible party shall make additional notification according to a schedule set forth by the City Engineer so that practice installations can be inspected during construction.
  - (d) Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the City Engineer or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The City Engineer or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
  - (e) The responsible party shall notify the City Engineer of any significant modifications it intends to make to an approved stormwater management plan. The City Engineer may require that the pro-posed 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 stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the Common Council, or are transferred to subsequent private owners as specified in the approved maintenance agreement. The responsible party authorizes the City Engineer to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Subch. VII of Ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under 14.71.
  - (g) If so directed by the City Engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
  - (h) The responsible party shall permit property access to the City Engineer or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
  - (i) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the City Engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
  - (j) The responsible party is subject to the enforcement actions and penalties detailed in 14.74, if the responsible party fails to comply with the terms of this permit.
- (5) Permit Conditions. In addition to the requirements needed to meet the performance standards in 14.67 or a financial guarantee as provided for in 14.71, all permits issued under this Ordinance shall be issued subject to the following conditions and requirements and any permittee who begins to perform any land disturbing activity authorized by permit shall be deemed to have accepted all of these conditions:
- (a) That all land disturbances, construction and development will be done pursuant to the control plan as approved by the City Engineer.
  - (b) That the permittee shall file a notice of completion of all land disturbing activities and/or the completion of installation of all on-site detention facilities within 10 days after completion.

- (c) That approval in writing must be obtained from the City Engineer prior to any modifications to the approved control plan
- (d) That the permittee will be responsible for maintaining all roads, road rights of way, streets, runoff, and drainage facilities and drainage ways as specified in the approved plan until they are accepted and become the responsibility of a governmental entity.
- (e) That the permittee will be responsible for repairing any damage at his or her expense to all adjoining surfaces and drainage ways caused by runoff and/or sedimentation resulting from activities which are not in compliance with the approved plan.
- (f) That the permittee must provide and install at his or her expense all drainage, and runoff control improvements as required by this Ordinance and the approved control plan, and also must bear his or her proportionate share of the total cost of off site improvements to drainage ways based upon the existing developed drainage area or planned development of the drainage area, as determined by the City Engineer, in accordance with Ch. 18 of this Code.
- (g) That no work will be done on the site during any period of time that the average hourly wind velocity at the location of the land disturbing activity exceeds twenty (20) miles per hour, unless provision has been made to eliminate dust and blowing dirt.
- (h) That no portion of the land which undergoes the land disturbing activity will be allowed to remain uncovered for greater than two (2) weeks after notice is given to the City Engineer that the land disturbing activity is completed.
- (i) That the permittee agrees to permit the City Engineer to enter onto the land regulated under this Ordinance for the purpose of inspecting for compliance with the approved control plan and permit.
- (j) That the permittee authorizes the City Engineer to perform any work or operations necessary to bring the condition of the lands into conformity with the approved control plan or plan as modified by the City Engineer and

further consents to the City of Baraboo placing the total of the costs and expenses of such work and operations upon the tax roll as a special tax against the property.

- (6) Permit Duration. Permits issued under this section shall be valid for a period beginning with the date of issuance by the City Engineer and extending six months from the date of issuance. All work must be completed prior to the expiration date of the permit. However, the City Engineer is authorized to extend the expiration date of the permit if he or she finds that such an extension will not cause an increase in runoff. The City Engineer is further authorized to modify the plans if necessary to prevent any increase in runoff resulting from any extension.

**14.69 STORMWATER MANAGEMENT PLAN.**

- (1) PLAN REQUIREMENTS. The stormwater management plan required under 14.67(2) shall contain any such information that the City Engineer may need to determine requirements for runoff control. The plan shall contain at a minimum the following information:
  - (a) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of stormwater management practices; and person(s) responsible for maintenance of stormwater management practices prior to the transfer, if any, of maintenance responsibility to another party.
  - (b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
  - (c) Pre-development site conditions, including one or more site maps at a scale of not less than one inch equals 100 feet. The site maps shall show the following:
    1. Site location and legal property description;
    2. Predominant soil types and hydrologic soil groups;
    3. Existing cover type and condition;
    4. Existing impervious surfaces and structures;

5. Topographic contours of the site at a scale not to exceed five feet;
  6. Topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site;
  7. Watercourses that may affect or be affected by runoff from the site;
  8. Flow path and direction for all stormwater conveyance sections;
  9. Watershed boundaries used in hydrology determinations to show compliance with performance standards;
  10. Lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site;
  11. Limits of the 100 year floodplain;
  12. Location of wells and wellhead protection areas covering the project area and delineated pursuant to §NR 811.16, Wis. Adm. Code.
- (d) Post-development site conditions, including:
1. Name, address, and telephone number of the land occupier, along with the name and telephone number of the party responsible for maintaining erosion control structures.
  2. Limits of natural floodplain(s), based on a 100-year flood, if any.
  3. A timing schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area of soil disturbing activity prior to the completion of effective measures for erosion and sediment control.
  4. 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.
  5. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.
6. One or more site maps at a scale of not less than 1 inch equals 100 feet showing the following:
    - a. Post-construction pervious areas including vegetative cover type and conditions (description shall be in such terms as: lawn, turfgrass, shrubbery, trees, forest cover, riprap, mulch, etc.);
    - b. Makeup of proposed surface soil (upper six inches) on areas not covered by buildings, structures, or pavement (description shall be in such terms as: original surface soil, subsoil, sandy, heavy clay, stony, etc.);
    - c. Impervious surfaces including all buildings, structures, and pavement, shown in square feet or to scale on a plan map;
    - d. Post-construction vertical topography at a contour interval suitable to the site and as approved by the City Engineer up to a maximum five (5) foot contour interval;
    - e. 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;
    - f. Locations of maintenance easements specified in the maintenance agreement;
    - g. Flow path and direction for all stormwater conveyance sections;
    - h. Location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area;
    - i. 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;

- j. 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;
  - k. Location of proposed land disturbing activity, proposed disturbance of protective cover, any proposed additional structure on the site, areas to be seeded or mulched, areas to be vegetatively stabilized and areas to be left undisturbed;
    - l. Elevations, dimensions, locations of all proposed soil disturbing activities including where topsoil will be stockpiled, so it will not contribute to erosion and sedimentation;
  - m. The finished grade, stated in feet horizontal to the vertical, or cut and fill slopes;
  - n. Kinds of utilities and proposed areas of installation;
7. 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). This section should include:
- a. Estimated peak flow rates and surface runoff of the area based on two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) year recurrence interval storm events. Peak flows based upon the recurrence interval of synthetic storm frequency events shall be required in the event that storm runoff or stream flow data is not available in the area;
  - b. Areas used in the TR-55 computations, clearly marked and labeled in a consistent manner;
  - c. The storm event recurrence interval and discharge rate in cubic feet per second which the design of plans for the site location is based upon;
  - d. Proposed provisions to carry runoff to the nearest adequate outlet, such as a curbed street, storm drain or natural drainage way, including the routing of roof drainage;
  - e. Design computations and applicable assumptions for all structural measures for erosion and sediment pollution control and water management. Volume and velocity of flow must be given for all surface water conveyance measures and pipe outfalls. Surface runoff computations shall be submitted to the City Engineer in accordance with current administrative guidelines approved by the Public Safety Committee;
  - f. Estimate of cost of erosion and sediment control and water management structures and features;
  - g. Provisions for maintenance of control facilities including easements to insure short as well as long term stormwater management. The future maintenance plan shall describe the recommended periods for inspection and maintenance as well as list the responsible parties to perform the work. Anticipated costs for regular maintenance shall be included in the plan;
  - h. Seeding mixtures and rates, lime, and fertilizer application rates, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

8. Results of investigations of soils and groundwater required for the placement and design of stormwater management measures. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.

- (e) A description and installation schedule for the stormwater management practices needed to meet the performance standards in 14.67.
  - (f) A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.
  - (g) Cost estimates for the construction, operation, and maintenance of each stormwater management practice.
  - (h) Other information requested in writing by the City Engineer to determine compliance of the proposed stormwater management measures with the provisions of this ordinance.
  - (i) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (2) ALTERNATE REQUIREMENTS. The City Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under §14.67(5).
- (3) PLANS PREPARED BY CITY ENGINEER. As an alternative to submitting the control plan for parcels of 0.5 acre or less, as specified in §14.64(1) the City Engineer may, if time permits, prepare a runoff control plan for the applicant's proposed land disturbing activity, adequate to meet the appropriate standards of §14.67. The City Engineer may require the applicant to submit any data or information that is necessary to prepare such a plan. Also, the applicant must submit the permit application and appropriate application fee as specified in §14.72. In addition to the permit application fee, the applicant must pay the plan preparation fee as specified in the schedule as adopted by the Common Council.

#### **14.70 MAINTENANCE AGREEMENT.**

- (1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required under §14.68(2) for stormwater management practices shall be an agreement between the City Engineer and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.
- (2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by §14.69(1)(f):
- (a) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
  - (b) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under §14.67(2).
  - (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under §14.67(2).
  - (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in par. (b).
  - (e) Authorization for the City Engineer to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
  - (f) A requirement on the City Engineer to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the stormwater

management practice into proper working condition.

- (g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the stormwater management practices, shall be notified by the City Engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the City Engineer.
- (h) Authorization of the City Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The City Engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Subch. VII of Ch. 66, Wis. Stats.

**14.71 FINANCIAL GUARANTEE.**

- (1) ESTABLISHMENT OF THE GUARANTEE. The City Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the City Engineer. The financial guarantee shall be in an amount determined by the City Engineer to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the City Engineer the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon writ-ten notice to the responsible party by the administering authority that the requirements of this ordinance have not been met.
- (2) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:

- (a) The City Engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the City Engineer to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The City Engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(b) The City Engineer shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the City Engineer, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

**14.72 FEES.**

- (1) FEE SCHEDULE. The fees referred to in other sections of this ordinance shall be established by the City Engineer and may from time to time be modified by resolution. A schedule of the fees established by the City Engineer shall be available for review in the City Clerk's office.
- (2) CONSULTANT SERVICES. If the City retains the services of professional consultants, including, but not limited to planners, engineers, architects, attorneys, environmental specialists, and/or other experts to assist the City in its review of a proposed permit application and/or runoff control plan, and/or if the City Engineer prepares or assists in the preparation of a runoff control plan for the development, the applicant/ developer may be required to reimburse the City for the City Engineer's time and for the costs incurred by the City to retain the services of such professional consultants and such reimbursement shall be in addition to the permit fees and other fees paid by the applicant/developer. The applicant/ developer shall reimburse the City for said costs promptly upon being invoiced for the same and the City may withhold issuance of a permit or delay final approval of a permit until the said costs and fees are reimbursed to the City in full. If the costs and fees are not reimbursed to the City within 30 days of the date of billing, an additional administrative collection charge of 10% of the charge shall be added to the amount due, plus interest shall accrue thereon at the rate of 1% per month until paid and such charge shall be extended upon the current or next tax roll as a charge against the subject property for current services as provided in §66.60(16), Wis. Stats. The City may require the applicant/developer to enter into an agreement providing for the reimbursement to the City for said costs and the said agreement may require the applicant/developer to file with the City an Irrevocable Letter of Credit or other appropriate sureties meeting the approval of the City Attorney equal to the estimated cost of said services.

**14.73 ADMINISTRATION.** In the administration and enforcement of this Ordinance, the City Engineer shall perform the following duties:

- (1) Keep an accurate record of all plan data received, plans approved, permits issued, inspections made and other official actions and make a periodic permit activity report to the Public Safety Committee.
- (2) Prepare plans for runoff control when requested to do so by the permit application pursuant to §14.68, but only after the appropriate fee is received.
- (3) Review all plans and permit applications received when accompanied with the necessary information and the appropriate fee and issue the permits required by §14.68(1) of this Code in accordance with the procedure as set out in this Code, but only when the erosion, sedimentation and runoff will be controlled to meet the standards of §14.67.
- (4) Investigate all complaints made to the application of this Ordinance.
- (5) Revoke any permit granted under this Ordinance if it is found that the holder of the permit has misrepresented any material fact in his or her permit application or plan; or has failed to comply with the plan as originally approved or as modified in writing subsequently by the City Engineer; or has violated any of the other conditions of the permit as issued to the applicant.
- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City Engineer plus interest and legal costs shall be billed to the responsible party.
- (5) The City Engineer is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the City Attorney to obtain a cease and desist order in any court with jurisdiction.
- (6) The City Engineer may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the City Engineer or by a court with jurisdiction.
- (8) The City Engineer is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the City Attorney for the commencement of further legal proceedings in any court with jurisdiction.

#### 14.74 **ENFORCEMENT.**

- (1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The City Engineer shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.
- (3) Upon receipt of written notification from the City Engineer under Sub. (2), the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the City Engineer in the notice.
- (9) Any person, firm, association, or corporation who does not comply with the provisions of this Code shall be subject to a forfeiture of not less than \$50 or more than \$500 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 re-sorting to injunctive proceedings.
- (11) When the City Engineer determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the City Engineer or a party designated by the City Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City Engineer shall keep a detailed accounting of the costs and expenses

of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to §14.61 of this Code. 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.

#### 14.75 APPEALS.

- (1) **BOARD OF PUBLIC WORKS.** The Board of Public Works (Public Safety Committee) shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer in administering this ordinance. The committee shall use the rules, procedures, duties, and powers authorized by §62.14, Wis. Stats., §1.24 of this Code, and such other powers and duties assigned by the Council. Upon appeal, the committee may authorize variances from the pro-visions 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 committee may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Baraboo affected by the order, requirement, decision or determination made by the City Engineer. For the purpose of this Ordinance, aggrieved person shall include applicant and property owners who own land that is subject to the Ordinance.

14.76 **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.

14.76 **EFFECTIVE DATE.** This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Common Council of the City of Baraboo on the 13<sup>th</sup> day of May, 2008.

14.78 thru 14.79 (Reserved)

### **SUBCHAPTER V: ILLICIT STORMWATER DISCHARGE**

#### 14.80 **GENERAL PROVISIONS**

- (1) **AUTHORITY.** This chapter is adopted under the authority granted by §283.33, Wis. Stats. and required by §NR 216.07(3)(a), Wis. Adm. Code.

(2) **LEGISLATIVE FINDINGS.** The Common Council of the City of Baraboo finds that discharges to the municipal separate storm sewer system that are not composed entirely of stormwater run-off contribute to increased nonpoint source pollution and degradation of receiving waters. The impacts of these discharges adversely affect public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters.

(3) **PURPOSE AND INTENT.** This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

- (a) To regulate the contribution of non stormwater pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (b) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

(4) **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, ordinances, or permits previously adopted or issued pursuant to law. However, wherever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

(5) **INTERPRETATION.** In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this Chapter may be inconsistent or conflicting, the more restrictive requirement or interpretation shall control.

#### 14.81 **DEFINITIONS.**

- (1) **ACCIDENTAL DISCHARGE** means a discharge prohibited by this ordinance that occurs by chance and without planning or thought prior to occurrence.

- (2) **BEST MANAGEMENT PRACTICE (BMP)** means a practice, technique, or measure that is an effective, practical means of preventing or reducing the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. This can include a structural or operational practice, schedule of activities, prohibition of practices, general good house keeping, pollution prevention and educational practices, maintenance procedures, and other management practices systems. A BMP may also be a practice that controls site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (3) **CLEAN WATER ACT** means the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), and any subsequent amendments thereto.
- (4) **CONSTRUCTION ACTIVITY** means any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff including but not limited to removal of ground cover, grading, excavating, and filling of land.
- (5) **DIRECTOR OF PUBLIC WORKS** means the individual, or the individual's designee, or the firm, or a representative of the firm, appointed or retained by the City Council assigned or charged with the responsibility of directing City public works programs and projects, including street maintenance, sewer and water construction, and garbage, recycling and yard waste collection.
- (6) **HAZARDOUS MATERIAL** 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, trans-ported, disposed of, or otherwise managed.
- (7) **ILLICIT DISCHARGE** means any direct or indirect non-stormwater discharge to the municipal separate storm sewer system, except as exempted in 14.84(1)(b) of this ordinance.
- (8) **ILLEGAL CONNECTION** means either of the following:
- (a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
  - (b) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (9) **INDUSTRIAL ACTIVITY** means activities subject to NPDES Industrial Permits as defined in 40 CFR, §122.26 (b)(14).
- (10) **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, City streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:
- (a) Owned and maintained by the City of Baraboo;
  - (b) Not a combined sewer; and
  - (c) Not part of a publicly owned treatment works.
- (11) **WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES) STORM WATER DISCHARGE PERMIT** means a permit issued by the Wisconsin Department of Natural Resources (WDNR) under authority delegated pursuant to 33 USC §1342(b) that authorizes the discharge of pollutants to waters of the state, whether the permit is applicable on an individual, group, or general area-wide basis.
- (12) **NON-STORMWATER DISCHARGE** means any discharge to the storm drain system that is not composed entirely of stormwater.
- (13) **PERSON** means except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission,

board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

- (14) **POLLUTANT** means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.
- (15) **POLLUTION** means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- (16) **PREMISES** means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (17) **STORM DRAINAGE SYSTEM** means publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (18) **STORMWATER** means the flow of water that results from, and which occurs during and immediately following, a rainfall, snow- or ice- melt event.
- (19) **STORMWATER POLLUTION PREVENTION PLAN** means a document which 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 stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

- (20) **STORMWATER RUNOFF** means the waters derived from rains falling or snowmelt or icemelt occurring within a drainage area, flowing over the surface of the ground and/or collected in channels, watercourses or conduits.
- (21) **STRUCTURAL STORMWATER CONTROL** means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.
- (22) **WASTEWATER** means any water or other liquid, other than uncontaminated storm water, discharged from a facility.
- (23) **WATERS OF THE STATE** has the meaning given in §281.01 (18), Wis. Stats.

**14.82 APPLICABILITY.** This chapter applies to all substances entering the City MS4 generated on any developed or undeveloped lands unless otherwise authorized under and explicitly exempted by this ordinance or the WNDR.

**14.83 ULTIMATE RESPONSIBILITY.** The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

**14.84 DISCHARGE PROHIBITIONS.**

- (1) **PROHIBITION OF ILLICIT DISCHARGES**
  - (a) **Prohibition.** No person shall throw, drain, discharge, cause to be discharged, or allow others under their control to discharge into the municipal separate storm sewer system or watercourse any materials other than stormwater, including but not limited to pollutants or waters containing pollutants.
  - (b) **Exemptions.** The following non-stormwater discharges are excluded from 14.84(1)(a) of this ordinance:

1. Waterline flushing or other potable water sources;
2. Landscape irrigation or lawn watering;
3. Diverted, natural riparian habitat and/or wetland flows;
4. Rising ground water, ground water infiltration to storm drains, and/or uncontaminated pumped groundwater;
5. Foundation or footing drains (not including active ground water dewatering systems) and crawl space pumps;
6. Air conditioning condensation;
7. Springs;
8. Non-commercial washing of vehicles;
9. Dechlorinated (less than one PPM chlorine) swimming pool water;
10. Firefighting/training activities and other discharges specified in writing by the Director of Public Works as being necessary to protect public health and safety; and
11. Other water sources determined by the Director of Public Works in writing as not containing pollutants that cause or contribute to waterway degradation, including, but not limited to, a violation of applicable water quality standards and/or degradation of the biotic integrity of surface water bodies and their floodplains.

(2) **PROHIBITION OF ILLEGAL CONNECTIONS.**

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices application or prevailing at the time of connection.
- (b) A person is in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- (c) 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 property upon receipt

of written notice of violation from the Director of Public Works requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and 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 Director of Public Works.

**14.85 SUSPENSION OF MS4 ACCESS.**

(1) **SUSPENSION DUE TO ILLICIT DISCHARGES IN EMERGENCY SITUATIONS.**

- (a) The Director of Public Works may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that 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.
- (b) If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency 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.

(2) **SUSPENSION DUE TO THE DETECTION OF ILLICIT DISCHARGE.**

- (a) 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 authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
- (b) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

**14.86 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.** Any person subject to an industrial or construction activity WPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Works prior to the allowing of discharges to the MS4.

**14.87 BEST MANAGEMENT PRACTICES.**

- (1) The Director of Public Works may adopt requirements identifying Best Management Practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S.
- (2) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and non-structural BMPs identified by the Director of Public Works under Sub. (1).
- (3) 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, structural and non-structural BMPs, in addition to those required by sub. (2), to prevent the further discharge of pollutants to the municipal separate storm sewer system.
- (4) Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

**14.88 WATERCOURSE PROTECTION.** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not

become a hazard to the use, function, or physical integrity of the watercourse.

**14.89 ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES.** The Director of Public Works or his/her designee shall be permitted to enter and inspect properties and facilities at reasonable times and as often as necessary to determine compliance with this ordinance.

- (1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Director of Public Works.
- (2) The owner or operator shall allow the Director of Public Works or his/her designee ready access to all parts of the premises for the purposes of inspection, sampling, photography, video-taping, examination and copying of any records that are required under the conditions of an WPDES permit to discharge stormwater.
- (3) The Director of Public Works or his/her designee shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Director of Public Works or his/ her designee to conduct monitoring and/or sampling of flow discharges.
- (4) The Director of Public Works or his/her designee may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Director of Public Works or his/her designee. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/ her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Director of Public Works or his/her designee and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the Director of Public Works or his/her designee access to a facility is a violation of this ordinance.

- (7) If the Director of Public Works or his/her designee has been refused access to any part of the premises from which stormwater is discharged, and the Director of Public Works or his/her designee is able to demonstrate probable cause 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 here-under, or to protect the overall public health, safety, environment and welfare of the community, then the Director of Public Works or his/her designee may seek issuance of a search warrant from any court of competent jurisdiction.

**14.90 NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS.**

- (1) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or nonstormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the City's municipal separate storm sewer system, waters of the state, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- (2) Said person shall notify the authorized enforcement agency in person or by phone, facsimile or in person within no more than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works within three business days of the phone or in person 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 three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.
- (3) In the event of such a release of hazardous materials, emergency response

agencies and/or other appropriate agencies shall be immediately notified.

- (4) Failure to provide notification of a release as provided above is a violation of this ordinance.

**14.91 VIOLATIONS, APPEALS, AND ENFORCEMENT.**

- (1) Notice of Violation. Whenever the Director of Public Works or his/her designee finds that a violation of this ordinance has occurred, the Director of Public Works or his/her designee may order compliance by a written notice of violation to the responsible person.
- (a) The notice of violation shall contain:
1. The name and address of the alleged violator;
  2. The address, when available, or a description of the building, structure or land upon which the violation is occurring, or has occurred;
  3. A statement specifying the nature of the violation;
  4. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
  5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
  6. A statement that the determination of violation may be appealed to the Public Works Committee by filing a written notice of appeal within five (5) days of the service of notice of violation.
- (b) Such notice may require without limitation:
1. The performance of monitoring, analyses, and/or reporting;
  2. The elimination of illicit discharges and illegal connections;
  3. That violating discharges, practices or operations shall cease and desist;
  4. The abatement or remediation of stormwater pollution or contamination

hazards and the restoration of any affected property;

5. Payment to cover administrative and abatement costs; and
6. The implementation of pollution prevention practices.

(2) APPEAL OF NOTICE OF VIOLATION.

- (a) Any person receiving a Notice of Violation may appeal the determination of the Director of Public Works.
- (b) The notice of appeal must be received within five (5) days from the Notice of Violation
- (c) Hearing on the appeal before the Public Safety Committee shall take place within 10 days from the receipt of the notice of appeal.
- (d) The decision of the Public Safety Committee shall be final.

(3) ENFORCEMENT/ABATEMENT MEASURES AFTER APPEAL.

- (a) If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or in the event of an appeal, within 5 days of the Public Safety Committee upholding the decision of the Director of Public Works, then representatives of the Director of Public Works shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property.
- (b) 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.

(4) COSTS OF ABATEMENT OF THE VIOLATION

- (a) Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement including administrative costs.
- (b) The property owner may file a written objection to the amount of the assessment within fifteen (15) days.
- (c) If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within

thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

- (d) Any person violating any of the provisions of this section shall become liable to the City by reason of such violation.

**14.92 PENALTIES.**

- (1) CIVIL PENALTIES. 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 ten days, or such greater period as the local permitting authority shall deem appropriate, after the local permitting authority has taken one or more of the actions described in §14.91, the local permitting authority may impose a penalty, not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

- (1) CRIMINAL PENALTIES. For intentional and flagrant violations of this ordinance, the local permitting authority may issue a citation to the alleged violator requiring such person to appear in municipal court to answer charges for such violation

**14.93 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

**14.94 REMEDIES NOT EXCLUSIVE.**

- (1) The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State, or local law and the City may seek cumulative remedies.
- (2) The City of Baraboo may recover in full attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**14.95 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.

14.96 **EFFECTIVE DATE.** This ordinance shall be in force and effect from and after its adoption and publication.

14.97 thru 14.99 (Reserved)