

**CITY OF JEFFERSON
PROPOSED ORDINANCE #9-08**

An Ordinance to Create Chapter 232 of the City of Jefferson Municipal Code Related to the Creation of an Erosion Control and Stormwater Management Ordinance for the City of Jefferson.

**THE COMMON COUNCIL OF THE CITY OF JEFFERSON, WISCONSIN DO
ORDAIN AS FOLLOWS:**

Section 1. Chapter 232 is hereby created as the Erosion Control and Stormwater Management Ordinance for the City of Jefferson

**Chapter 232
EROSION CONTROL AND STORMWATER MANAGEMENT**

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§ 232-1. Authority.

This chapter is adopted under the authority granted by § 61.34(1), 61.35, 61.354, 62.23 and 236.45. Wis. Stats.

§ 232-2. Findings.

The Common Council of the City of Jefferson finds that construction site erosion and uncontrolled stormwater runoff from land disturbing and land development activities have significant adverse impacts upon regional water resources and the health, safety, property and general welfare of the community and diminish the public enjoyment and use of natural resources. The Common Council finds that effective sediment and stormwater management depends on proper planning, design, and timely installation of conservation and management practices and their continuing maintenance. Specifically, soil erosion and stormwater runoff can:

- A. Carry sediment, nutrients, pathogens, organic matter, heavy metals, toxins and other pollutants to regional lakes, streams and wetlands;
- B. Diminish the capacity of water resources to support recreational and water supply uses and a natural diversity of plant and animal life;
- C. Clog the City's existing drainage systems, increasing maintenance problems and costs;
- D. Cause bank and channel erosion;
- E. Increase downstream flooding;
- F. Reduce groundwater recharge, which may diminish stream base flows and lower water levels in regional lakes, ponds and wetlands;
- G. Contaminate drinking water supplies;
- H. Increase risk of property damage and personal injury; and
- I. Cause damage to agricultural fields and crops.

§ 232-3. Purpose and objectives.

It is the purpose of this chapter to preserve the natural resources, to protect the quality of the waters of the state and the City and to protect and promote the health, safety and welfare of the people to the extent practicable by accomplishing the following objectives:

- A. Promote regional stormwater management by watershed;
- B. Minimize sedimentation, water pollution from nutrients, heavy metals, chemical and petroleum products and other contaminants, flooding and thermal impacts to the water resources of the City;
- C. Promote infiltration and groundwater recharge;
- D. Protect functional values of natural watercourses and wetlands;
- E. Achieve an eighty-percent reduction in sediment load rates to Jefferson County waters compared to no controls for all new development, a forty-percent reduction in sediment load rates compared to no controls for all redevelopment and street reconstruction, and a twenty-percent reduction in sediment load rates compared to no controls for existing developments;

- F. Ensure no increase in the rate of surface water drainage from sites during or after construction; and
- G. Protect public and private property from damage resulting from runoff or erosion.

§ 232-4. 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. Wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

§ 232-5. 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.

§ 232-6. Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

AFFECTED - A regulated activity has significantly;

- A. Caused negative impacts on water quality or the use or maintenance of one's property or business; or
- B. Endangered health, safety, or general welfare.

AGRICULTURAL - Related to or 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 productions and wild crop harvesting and includes lands used for on-site buildings and other structures necessary to carry out such activities.

BANK EROSION - The removal of soil or rock fragments along the banks or bed of a stream channel resulting from high flow after rain events.

BEST MANAGEMENT PRACTICE - A practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. These can include structural vegetative or operational practices.

CITY - The City of Jefferson.

CITY ENFORCEMENT AGENT - The person or representative hired, appointed or retained by the City Council to routinely provide public works services, building inspection, or engineering services for the City and shall include the City Building Inspector, City Engineer, City Administrator, Director of Public Facilities, or any other person designated by the City Council or these particular City representatives.

CITY ENGINEER - The person or a representative of the firm appointed or retained by the City Council to routinely provide engineering services for the City

CONNECTED IMPERVIOUSNESS - An impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

CONSTRUCTION SITE EROSION CONTROL - Preventing or reducing soil erosion and sedimentation from land development and land disturbing activity.

CONTROL MEASURE - A structural or nonstructural practice or combination of practices to control sediment and other pollutants, manage runoff or maintain infiltration devices, wet detention basins, grit chambers, filter fences, mulching and seeding and minimize the extent and duration of disturbed areas.

CONTROL PLAN - A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this chapter submitted by the applicant for review and approval by the Plan Commission and City Council.

EFFECTIVE INFILTRATION AREA - 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.

EROSION - The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

EXCAVATION - Any act by which organic matter, earth, sand, gravel, rock or any other material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the resulting conditions.

EXISTING DEVELOPMENT - Buildings and other structures and impervious area existing prior to the adoption of this ordinance.

FILL - An act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the resulting conditions.

FINANCIAL SECURITY INSTRUMENT - An escrow account, certified check, irrevocable letter of credit or similar guarantee submitted to the City to assure that requirements of this chapter are carried out in compliance with the stormwater management plan.

GULLY EROSION - A severe loss of soil caused by or resulting in concentrated flow of sufficient velocity to create a defined flow channel.

HEAVILY DISTURBED SITE - A site where an area of land is subjected to significant compaction due to the removal of vegetative cover or earthmoving activities, including filling.

HYDROLOGIC SOIL GROUP (HSG) - Has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

IMPERVIOUS SURFACE - Any land cover that prevents rain or melting snow from soaking into the ground, such as roofs (including overhangs), roads, sidewalks, patios, driveways and parking lots. For purposes of this chapter, all road, driveway or parking surfaces, including gravel

surfaces, shall be considered impervious unless specifically designed to encourage infiltration and approved by the local approval authority.

INFILTRATION - For the purposes of this ordinance, refers to any precipitation that does not leave the site as surface runoff. Infiltration shall be calculated using a mathematical model as accepted by the City Engineer with input parameters as established by the City Engineer

INFILTRATION SYSTEM - A device or practice such as a basin, trench, rain garden or practice 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.

KARST FEATURE - 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.

LAND DISTURBING ACTIVITY - 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.

LAND USER - Any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his land.

LIGHTLY DISTURBED SITE - A site where an area of land is subjected to minor compaction, due to the limited removal of vegetative cover or earth-moving activities.

LOCAL APPROVAL AUTHORITY - The City staff, agency or contracted entity charged by the City Council with responsibility for enforcing stormwater and erosion control ordinances. Unless amended, this shall be the City Engineer for the City

LOCAL LAND DIVISION ORDINANCE - Chapter 290 of the Jefferson Code of Ordinances.

MAXIMUM EXTENT PRACTICABLE (MEP) - A level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered, and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet performance standards and may vary based on the performance standard and site conditions.

NEW DEVELOPMENT - Any of the following activities:

- A. Structural development, including construction of a new building or other structures;
- B. Expansion or alteration of an existing structure that results in an increase in the surface dimensions of the building or structure;
- C. Land disturbing activities; or
- D. Creation or expansion of impervious surface.

NONEROSIVE VELOCITY - A rate of flow of stormwater runoff usually measured in feet per second, that does not erode soils. Nonerosive velocities vary for individual sites, taking into account topography, soil type, and runoff rates.

PEAK FLOW - The maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the predetermined storm or flood.

PERMITTEE - The holder of a permit issued pursuant to this chapter.

PERVIOUS SURFACE - Any land cover that permits rain or melting snow to soak into the soil.

PLAN - An erosion control plan required by § 232-7 or a stormwater management plan required by § 232-8.

POST DEVELOPMENT - Refers to the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan. This term is used to match pre- and post-development stormwater peak flows as required by this chapter.

PREDEVELOPMENT - Refers to the extent and distribution of land cover types present before initiation of the proposed land development activity, assuming that all land uses prior to land disturbing activity are in "good" condition as described in the Natural Resources Conservation Service Technical Release 55, Urban Hydrology for Small Watersheds (commonly known as "TR-55"). This term is used to match pre- and post-development stormwater peak flows as required by this chapter. In a situation where cumulative impervious surface created after the date of adoption of this ordinance exceeds the twenty thousand (20,000) square foot threshold, the predevelopment conditions shall be those prior to the proposed land disturbances.

REDEVELOPMENT - Any construction, alteration or improvement exceeding 4,000 square feet of land disturbance performed on sites where the entire existing site is predominantly developed to commercial, industrial, institutional or multifamily residential uses. Projects may include a mix of redevelopment and new impervious surfaces. New impervious surfaces added as a result of redevelopment are subject to § 232-8A.

RUNOFF - Rainfall, snow melt or irrigation water following over the ground surface.

RUNOFF CURVE NUMBER (RCN) - Has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practice.

SEDIMENT - Solid earth material, both mineral and organic, this 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.

SEDIMENTATION - The deposition of eroded soils at a site different from the one where the erosion occurred.

SHEET AND RILL EROSION - A loss of soil caused by sheet flow or shallow concentrated flow and characterized by an absence of channeling or a relatively uniform loss across the exposed upper layer of the soil or shallow irregular scouring of the soil surface.

SITE - The bounded area described in an erosion control plan or stormwater management plan.

SLOPE - The net vertical rise over horizontal run, expressed as a percentage which represents a relatively homogeneous surface incline or decline over the area disturbed.

SOIL LOSS RATE - The rate, usually measured in tons per acre per year, at which soil is transported beyond the perimeter of a given control site and which occurs as a result of sheet and rill erosion. This term does not apply to soil movement resulting from concentrated flow such as gully or bank erosion.

STORM EVENTS - The precipitation amounts that occur over a twenty-four-hour period that have a specified recurrence interval for Jefferson County, Wisconsin. For example, one-, two-, ten- and one-hundred-year storm events have a recurrence interval of one, two, ten, and one-hundred years, respectively.

STORMWATER - The flow of water which results from, and which occurs during and immediately following, a rainfall or snow or ice melt event.

STORMWATER MANAGEMENT - Any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality after land development activities.

STORMWATER RUNOFF - The waters derived from rains falling or snow melt or ice melt occurring within a drainage area, flowing over the surface of the ground and collected in channels, watercourses, or conduits.

STREET RECONSTRUCTION - Removal and replacement of the road subgrade, where existing stormwater conveyance systems are modified.

STRUCTURE - Any human-made object with form, shape and utility, either permanently or temporarily attached to, placed upon, or set into the ground, streambed or lake bed.

UNNECESSARY HARDSHIP - That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with regulations unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

WORKING DAY – Monday, Tuesday, Wednesday, Thursday or Friday, excluding any such day officially observed by the City as a legal holiday.

§ 232-7. Applicability of erosion control requirements.

Unless expressly exempted by § 232-9, an erosion control and stormwater management permit containing an approved erosion control plan under § 232-12 shall be required and all construction site erosion control provisions of this chapter shall apply to any of the following activities within the jurisdiction of the City:

- A. Land disturbing activity in excess of **one acre**;
- B. Land disturbing activity on a slope of greater than 10%;
- C. Land disturbing activity that involves excavation or filling, or a combination of excavation and filling, in excess of **1,000** cubic yards of material;
- D. Land disturbing activity that disturbs more than **200** lineal feet of road ditch, grass waterway or other land area where surface drainage flows in a defined open channel,

including the placement, repair or removal of any underground pipe, utility or other facility within the cross section of the channel;

- E. Construction of any new public or private roads or access drives longer than **200** feet;
- F. Development that requires a subdivision or condominium plat, as defined in the applicable local land division ordinance(s); or
- G. Land disturbing activity that disturbs less than **one acre** of land, including the installation of access drives, that the local approval authority determines to have a high risk of soil erosion or water pollution, or that may significantly impact a lake, stream, or wetland area. Examples of activities with a high risk of soil erosion or water pollution may include, but are not limited to, land disturbance on erodible soil or disturbance adjacent to lakes, rivers, streams or wetlands. All such determinations made by the local approval authority shall be in writing, unless waived by the applicant.

§ 232-8. Applicability of stormwater control requirements.

- A. Unless otherwise exempted by § 232-9, an erosion control and stormwater management permit containing an approved stormwater control plan under § 232-13 shall be required and all stormwater management provisions of this chapter shall apply to any of the following activities within the jurisdiction of the City:
 - (1) Any development, that results in land disturbing activity in excess of **one acre**;
 - (2) Any development that requires a subdivision or condominium plat, as defined in the applicable local land use ordinance(s);
 - (3) Any development that requires a certified survey map, as defined in the applicable local land division or zoning ordinance(s), for property intended for commercial or industrial use;
 - (4) Redevelopment, as defined in § 232-6; or
 - (5) Other land development activities, including but not limited to redevelopment or alteration of existing buildings or other structures, that the local approval authority determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or property damage or significantly impact a lake, stream, or wetland area. All such determinations shall be made in writing unless waived by the applicant.

§ 232-9. Exemptions and clarifications.

- A. The following activities are exempt from all requirements of this chapter:
 - (1) Any activity directly related to the planting, growing, and harvesting of agricultural crops except as set forth in § 232-8A(1).
- B. The following activities are exempt from the construction site erosion control provisions of § 232-7:

- (1) One- and two-family dwelling units regulated under the Wisconsin Uniform Dwelling Code. The City shall regulate these sites during the period that residential building permits are in effect, consistent with then existing Wisconsin Uniform Dwelling Code requirements. (Land disturbing activities in excess of one (1) acre, whether or not associated with the construction of a dwelling, are not exempt from this chapter.)
 - (2) Projects specifically exempted from local erosion control ordinances under state or federal statute. It is the responsibility of the landowner to demonstrate such exemption with documentation acceptable to the City.
 - (3) Projects subject to an approved shoreland erosion control permit.
 - (4) Agricultural development not subject to § 232-8A(1).
 - (5) City road or county highway projects not exempted under § 232-9B(2) are exempt from § 232-13B(3) where all of the following conditions are met:
 - (a) The purpose of the project is only to meet current state or federal design or safety guidelines;
 - (b) All activity takes place within existing public right-of-way.
 - (c) All other requirements of § 232-13 are met; and
 - (d) The project does not include the addition of new driving lanes.
- C. The following activities are exempt from the infiltration standards described in § 232-13B(6):
- (1) Redevelopment sites.
 - (2) New development sites with less than 10% connected imperviousness based on complete development of the post construction site, provided the cumulative area of all impervious surface is less than one acre.
 - (3) Agricultural facilities and practices.
 - (4) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the proposed infiltration system where the soil layer is not easily removed or manipulated.
 - (5) Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 - (6) Roads in commercial, industrial and institutional land uses, and arterial roads.

§ 232-10. Permit procedure.

- A. Control permit required. No one shall commence any activity described in § 232-7 or 232-8, and no zoning permit may be issued, without receiving an erosion control and stormwater management permit from the City.
- B. Application requirements. At least one landowner, occupant or user controlling, occupying or using the site and desiring to undertake a land disturbing or land developing activity subject to this chapter shall provide the following when requesting a permit:
 - (1) A completed erosion control and stormwater management permit application.
 - (a) The application must be signed by the landowner or include a notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent and bind the landowner to the terms of this chapter.
 - (b) If a landowner appoints an agent to submit an application pursuant to Subsection B(1)(a), the landowner shall be bound by all of the requirements of this chapter and the terms of any permit issued to the agent.
 - (2) If required by § 232-7, an erosion control plan containing all the information and meeting all the standards of § 232-12, or a simplified checklist as described in § 232-12.
 - (3) If required by § 232-8, a stormwater management plan meeting all of the standards of § 232-13 and covenants and restrictions as described in § 232-14.
 - (4) Applicable fees as required by § 232- 18.
 - (5) Copies of permits or permit applications or approvals required by any other governmental entity.
 - (6) A proposed timetable and schedule for completion and installation of all elements of approved erosion control and stormwater management plans and a detailed schedule for completion of construction.
 - (7) An estimate of the cost of completion and installation of all elements of the approved erosion control and stormwater management plans.
 - (8) Evidence of financial responsibility to complete the work proposed in the plan, as required by § 232-21.
- C. Approval process.
 - (1) Within 5 working days following the submission of the application and appropriate fees, the City Engineer shall verify that the permit application is complete or notify the applicant in writing of any deficiencies.
 - (2) After verifying completeness, the City Engineer shall review the plan(s) for compliance with the standards identified in § 232.12 and § 232.13.
 - (3) Within 15 working days after receiving the completed application and plans the City Engineer shall either approve the submitted plan or notify the applicant, in writing, of any deficiencies.

- (4) Within 15 working days after verification that the application is complete the City Engineer shall issue the applicant an erosion control and stormwater management permit providing the applicant has met all requirements necessary for permit issuance. The City Engineer shall issue all permit denials in writing.
- (5) Where installed stormwater control measures will be privately owned, covenants and restrictions complying with the provisions of § 232-14 shall be recorded with the Jefferson County Register of Deeds, prior to the issuance of an erosion control and stormwater management permit. The foregoing information shall also be noted on every plat and certified survey map.

D. Permit conditions. All permits shall contain the following requirements:

- (1) The permittee shall notify the City Building Inspector five working days prior to commencing any land developing or land disturbing activity.
- (2) The erosion control plan shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Any stormwater control components of the plan shall be maintained in perpetuity.
- (3) The permittee is responsible for successful completion of the erosion control plan and the stormwater management plan. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.
- (4) The permittee shall inspect the erosion control measures after each rain of 0.5 inch or more and at least once a week and make any needed repairs.
- (5) Application for a permit shall constitute express permission by the permittee and landowner for the City to enter the property for the purposes of inspection under § 232-11 or curative action under § 232-19. The application form shall contain a prominent provision advising the applicant and landowner of this requirement.
- (6) The permittee shall pay the cost of off-site drainageway, stream channel or other improvements necessitated by the land developing or land disturbing activity.
- (7) All erosion control and stormwater management permits shall be valid for a period of one year from the date of issuance. All work must be completed prior to expiration of the permit. If land disturbing activity is to continue beyond the expiration of the permit, then reapplication and review pursuant to this chapter is required.
- (8) All incidental mud-tracking off site onto adjacent public thoroughfares shall be manually or mechanically (not hydraulically) cleaned up and removed by the end of each working day using proper disposal methods.
- (9) A copy of the approved permit and erosion control plan shall be kept on the project site, in a place readily accessible to contractors, engineers, City inspection staff and other authorized personnel.

E. Permit transfers.

- (1) Erosion control and stormwater management permits issued under this chapter are not assignable without prior written approval by the City.

- (2) When a landowner acts to transfer an interest in property subject to an approved erosion control plan prior to completion of the proposed steps to attain soil stabilization, the permittee must secure approval from the City.
 - (3) When a landowner transfers ownership, possession or control of real estate, subject to either or both an uncompleted erosion control or stormwater management plan, the landowner may transfer his or her obligations under the permit under the following arrangements:
 - (a) The transferee shall file a new, approved erosion control or stormwater plan, or both, with the City enforcement agent.
 - (b) The transferee shall complete an approved assignment form from the City.
 - (c) The financial security held by the City may be released to the transferor if the transferee provides a financial security for the remaining obligations under the permit, following the procedures in § 232-21.
 - (d) If the assignment is approved, the transferee as subpermittee shall be responsible for the remaining unfulfilled obligations of the erosion control and stormwater management permit, including long-term maintenance.
- F. Plan or permit amendments. Any proposed modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the City.

§ 232-11. Inspections.

- A. The City enforcement agent may inspect all land disturbing activities and sites in order to ensure compliance with the erosion control plan, stormwater management plan, and permit. Application for a permit under this chapter shall constitute permission by the applicant and the landowner for the City enforcement agent to enter upon the property, as necessary, to confirm compliance with requirements of the chapter and the approved control plans.
- B. The permittee shall inspect the erosion control measures after each rain of 0.5 inch or more and at least once a week and make any needed repairs.
- C. The City enforcement agent shall inspect the site at least once every 30 days, or more frequently if necessary to ensure plan compliance.
- D. Within 10 days after installation of all practices in an approved erosion control plan and achievement of soil stabilization, the permittee shall notify the City enforcement agent.
- E. The City enforcement agent shall inspect the property to verify compliance with the erosion control plan within 10 days of notification of soil stabilization.
- F. Within 10 days after installation of all practices in an approved stormwater management plan, the permittee shall notify the City enforcement agent and submit as-built drawings documenting construction. The person who designed the stormwater management plan or the permittee shall submit as-built certification to ensure that constructed stormwater management practices and conveyance systems comply with the specifications included in

the approved plans. At minimum, as-built certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. Other information shall be submitted as required by the City enforcement agent. Within 10 days following the submittal of as-built drawings documenting construction, the City enforcement agent shall inspect the control measures to ensure compliance with the approved stormwater management plan.

- G. Maintenance of stormwater control structures is the responsibility of the owner, and facilities are subject to inspection and orders for repairs.
- H. If land disturbing or land development activities are being carried out without a valid permit, the City Building Inspector, City Engineer, or their authorized agents may enter the land pursuant to the special inspection warrant provisions of § 66.0119, Wis. Stats.

§ 232-12. Erosion control plan.

- A. Plan materials. Erosion control plans required under § 232-7 may include consideration of adjoining landowners' cooperative efforts to control transport of sediment. All maps submitted under this section shall be on a scale of at least one-inch equals 100 feet. Except as specifically exempted by the City, all erosion control plans shall include at a minimum the following information:
 - (1) Property lines, lot dimensions and limits of disturbed area;
 - (2) Location and dimensions of impervious area, including utilities, structures, roads, highways and paving, with the type of paving and surfacing material being indicated;
 - (3) All natural and artificial water features, including, but not limited to lakes, ponds, streams (including intermittent streams), wetlands, channels, ditches, and other watercourses on or immediately adjacent to the site;
 - (4) Location of the predominant soil types;
 - (5) Limits and extent of vegetative cover existing before and after commencement of land disturbing activities;
 - (6) Cross sections of and profiles within road ditches;
 - (7) Culvert sizes;
 - (8) Direction of flow of runoff continuing at least to the nearest perennial stream (small-scale map may be used if necessary);
 - (9) Watershed size for each drainage area, including ordinary high water marks for all navigable waters, one-hundred-year floodplains, flood fringes and floodways, and delineated wetland boundaries;
 - (10) Design discharge for ditches and structural measures;
 - (11) Existing and proposed runoff velocities;
 - (12) Fertilizer and seeding rates and recommendations;

- (13) Time schedules for stabilization of ditches and slopes;
 - (14) Description of methods by which sites are to be developed, including schedule of anticipated starting and completion dates of land disturbing and land developing activity and time schedules for stabilization of ditches and slopes;
 - (15) Provision for sequential steps mitigating erosive effect of land disturbing activities to be followed in appropriate order and in a manner consistent with accepted erosion control methodology suitable to proposed sites and amenable to prompt re-vegetation, including runoff calculations as appropriate;
 - (16) Provisions for maintenance of the control measures during land disturbing activities and a narrative describing the long-term maintenance required to ensure that control measures continue to perform the functions intended by the plan;
 - (17) Provisions to prevent mud-tracking off site onto public thoroughfares during the construction period; and
 - (18) Provisions to disconnect impervious surfaces, where feasible;
 - (19) Provisions to prevent sediment delivery to and accumulation in any proposed or existing stormwater conveyance systems;
 - (20) Copies of permits or permit applications required by any other unit of government or agency;
 - (21) Existing or proposed elevations referenced to the North American Vertical Datum (NAVD) of 1988 and existing and proposed contours in the area, where deemed necessary.
 - (22) Such other information as the City Engineer deems necessary, including information necessary to reasonably determine the location, nature and condition of any physical or environmental features of the site.
- B. Specific plan requirements. At a minimum, the control plan for all sites not subject to the checklist plan must include the following requirements;
- (1) Drain inlet protection. Affected storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting all accepted design criteria, standards and specifications, as determined by the City Engineer.
 - (2) Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.
 - (3) Tracking. Access driveways and parking area shall be of sufficient length, width, and wearing surface (such as stone) to accommodate any vehicular traffic using site access drives and site parking. Sediment reaching a public or private road or thoroughfare shall be removed by sweeping (not hydraulic flushing) before the end of each workday.

- (4) Channelized runoff. Channelized runoff from adjacent areas through the site shall be diverted around disturbed areas, where practical, as determined by the City Engineer. Diverted runoff shall be conveyed in a manner that will not erode the receiving channels.
- (5) Sequenced activities. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time and the amount of soil leaving the site.
- (6) Disturbed ground stabilization. All disturbed ground and soil or dirt storage piles shall be contained on the site by filter barriers and other suitable means. The containment measures shall be installed at a time established by the City Engineer. The containment measures shall remain in place until the site is adequately stabilized, as determined by the City Engineer.
- (7) Filter fences or straw bales on slopes. Filter fences, straw bales, or equivalent control measures shall be placed continuously along all side slope and downside slope sides of the site where deemed appropriate by the City Engineer. If a channel or area of concentrated runoff passes through the site, filter barriers shall be placed continuously along the channel edges to reduce sediment reaching the channel.

C. Checklist control plan.

- (1) When allowed. Applicants may submit erosion control permit applications using a standard simplified checklist of standard erosion control measures, provided by the City, if all of the following conditions exist:
 - (a) The site does not exceed **one acre** in area;
 - (b) The slope of the land does not exceed 6 % throughout the site;
 - (c) The City Engineer determines that no special circumstances exist due to topography, proximity to watercourses or relation to environmentally-sensitive lands; and
 - (d) There has been no subdivision of land (as defined in Ch. 236, Wis. Stats.).
- (2) Checklist control plan approval. **Simplified plan checklists shall be reviewed by the City Building Inspector, in consultation with the City Engineer if necessary, for completeness and compliance with the intent of this chapter.**

D. Erosion control performance standards.

- (1) Proposed design, suggested location and phased implementation of effective practicable erosion control measures For all erosion control plans shall be designed, engineered, and implemented to achieve the following results:
 - (a) Prevent gully and bank erosion; and
 - (b) Limit total off-site permissible annual aggregate soil loss for exposed areas resulting from sheet and rill erosion to an annual cumulative soil loss rate not to exceed 7.5 tons per acre annually.

- (c) Discharges from new construction sites must have a stable outlet capable of carrying designed flow at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or water body.
 - (2) Plan compliance under Subsection D(1) shall be determined using the United States Natural Resources Conservation Service Technical Guide or another commonly accepted soil erosion methodology approved by the City Engineer that considers season of year, site characteristics, soil erodibility, and slope.
 - (3) Erosion control measures for plan approval need not attempt to regulate soil transportation within the boundaries of the applicant's site.
- E. Other construction site control measures. The control standards set forth above are intended to apply on a typical development site in the Jefferson area. When land disturbing or land development activity is proposed for a site with extraordinary features, then the City Council may, at its discretion, require additional and/or more restrictive control standards and measures before any control plan is approved or permit is issued. Extraordinary sites include, but are not limited to, sites where land disturbing or development activities are proposed to occur on slopes of more than 20% in designated floodplain, wetland, or conservancy areas or in environmental corridor areas identified in the City Comprehensive Plan.

§ 232-13. Stormwater management plan.

- A. Plan materials. Stormwater management plans shall satisfy all of the requirements in Subsection B and shall address at a minimum the following information:
 - (1) A narrative describing the proposed project, including implementation schedule for planned practices.
 - (2) Identification of the entity responsible for long-term maintenance of the project.
 - (3) A map showing drainage areas for each watershed area.
 - (4) A summary of runoff peak flow rate calculations, by watershed area, including:
 - (a) Preexisting flow rates;
 - (b) Post-construction peak flow rates with no detention;
 - (c) Post-construction peak flow rates with detention;
 - (d) Assumed runoff curve numbers (RCNs); and
 - (e) Time of concentration (T_c) used in calculations
 - (5) A complete site plan and specifications, signed by the person who designed the plan. All plans shall be drawn on a scale of at least one inch equaling 100 feet, but no larger than one inch equaling 20 feet, shall be clearly labeled, and shall include, at a minimum, all of the following information:

- (a) Property lines and lot dimensions;
 - (b) All buildings and outdoor uses, existing and proposed, including all dimensions and setbacks;
 - (c) All public and private roads, interior roads, driveways and parking lots; show traffic patterns and type of paving and surfacing material;
 - (d) All natural and artificial water features, including but not limited to lakes, ponds, streams (including intermittent streams), and ditches; show ordinary high-water marks of all navigable waters, one-hundred-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense;
 - (e) Depth to bedrock;
 - (f) Depth to seasonal high-water table;
 - (g) The extent and location of all soil types as described by the Jefferson County Soil Survey, slopes exceeding 12%, and areas of natural woodland or prairie;
 - (h) Existing and proposed elevations (referenced to the North American Vertical Datum of 1988) and existing and proposed contours at four-foot or lesser intervals;
 - (i) Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project;
 - (j) Soil erosion control and overland runoff control measures, including runoff calculations as appropriate;
 - (k) Detailed construction schedule;
 - (l) Copies of permits or permit applications required by any other governmental entities or agencies;
 - (m) Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features;
 - (n) Location of all stormwater management practices;
 - (o) All existing and proposed drainage features;
 - (p) The location and area of all existing and proposed impervious surfaces; and
 - (q) The limits and area of the disturbed area.
- (6) Engineered designs for all structural management practices.
- (7) A description of methods to control oil and grease or written justification for not providing such control.

- (8) A maintenance plan and schedule for all permanent stormwater management practices as recorded on the affidavit required in § 232-10C(5).

B. Stormwater management performance standards. Proposed design, suggested location and phased implementation of effective, practicable, stormwater management measures for plans shall be designed, engineered and implemented to achieve the following results:

- (1) Sediment control.
 - (a) For new construction, design practices to retain soil particles greater than five microns on the site (eighty-percent reduction) resulting from a one-year, twenty-four-hour storm event (2.5 inches over 24-hour duration), according to approved procedures, and assuming no sediment resuspension.
 - (b) For redevelopment resulting in exposed surface parking lots and associated traffic areas, design practice to retain soil particles greater than 20 microns on the entire site (forty-percent reduction) resulting from a one-year, twenty-four-hour storm event, according to approved procedures, and assuming no sediment resuspension. Under no circumstances shall the site's existing sediment control level or trapping efficiency be reduced as a result of the redevelopment.
- (2) Oil and grease control. For all stormwater plans for commercial or industrial developments and all other uses where the potential for pollution by oil or grease, or both, exists, the first 0.5 inch of runoff will be treated using the best oil and grease removal technology available. This requirement may be waived by the City Engineer only when the applicant can demonstrate that installation of such practices is not necessary.
- (3) Runoff rate control, hydrologic calculations. All runoff calculations shall be according to the methodology described in the Natural Resources Conservation Service's Technical Release 55, Urban Hydrology For Small Watersheds (commonly known as "TR-55"), or other methodology approved by the Jefferson County Conservationist. For agricultural land subject to this section, the maximum runoff curve number (RCN) used in such calculations shall be 51 for HSG A, 68 for HSG B, 79 for HSG C, and 84 for HSG D. The TR-55 specified curve numbers for other land uses shall be used. Heavily disturbed sites shall be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no modification. Where practices have been implemented to restore soil structure to predeveloped conditions, no permeability class modification is required.
- (4) Runoff rate control, design standards. All stormwater facilities shall be designed, installed and maintained to effectively accomplish the following:
 - (a) Maintain predevelopment peak runoff rates for the two-year, twenty-four-hour storm event (2.9 inches over 24 hours' duration).
 - (b) Maintain predevelopment peak runoff rates for the ten-year, twenty-four-hour storm event (4.2 inches over 24 hours' duration).
 - (c) Maintain predevelopment peak runoff rates for the one-hundred-year, twenty-four-hour storm event (six inches over 24 hours' duration).

- (5) Outlets. Discharges from new construction sites must have a stable outlet capable of carrying the designed flow as required in Subsection B(4) at a nonerosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or water body.
- (6) Infiltration.
 - (a) Design practices to infiltrate sufficient runoff volume so that post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based upon average annual rainfall. If, when designing appropriate infiltration systems more than one percent (1%) of the site is required to be used as effective infiltration area for residential development or more than two percent (2%) of the site is required to be used as effective area for non-residential development, the applicant may alternately design infiltration systems and pervious surfaces to meet or exceed an annual recharge rate of 7.6 inches per year. If this alternative design approach is taken at least one percent (1%) of the site must be used for infiltration in residential developments and at least two percent (2%) of the site must be used for infiltration in non-residential developments. For re-development projects the infiltration requirements shall be applied only to the area that was not impervious when the project began.
 - (b) Pre-treatment. Before infiltrating runoff, pre-treatment shall be required. The pre-treatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality. Where appropriate, pretreatment for other runoff constituents that represent a threat of groundwater contamination may be required.
 - (c) Prohibitions. Notwithstanding subparagraphs (a) and (b), infiltration systems may not be installed in any of the following areas:
 - [1] Areas associated with tier 1 industrial facilities identified in § NR 216.21(2)(a), Wis. Admin Code, including storage, loading, rooftop and parking.
 - [2] Storage and loading areas of tier 2 industrial facilities identified in § NR 216.21(2)(b), Wis. Admin Code.
 - [3] Fueling and vehicle maintenance areas.
 - [4] Areas within 1,000 feet up gradient or within 100 feet down gradient of karst features.
 - [5] Areas with less than three feet separation distance from bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except that this provision does not prohibit infiltration of roof runoff.
 - [6] Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet

separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

- [7] Areas within 400 feet of a community water system well as specified in § NR 811.16(4), Wis. Admin Code for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
- [8] Areas where contaminants of concern, as defined in § NR 720.03(2), Wis. Admin Code are present in the soil through which infiltration will occur.
- [9] Any area where the soil does not exhibit one of the following characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least 5-foot soil layer with 10% fines or greater. This provision does not apply where the soil medium within the infiltration system provides an equivalent level of protection and does not prohibit infiltration of roof runoff.

- (e) Alternate use for runoff. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this section.

C. Minimizing groundwater pollution. According to ch. NR 151, Wis Admin Code, infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventative action limit at a point of standards application in accordance with ch. NR 140, Wis Admin Code. However, if site-specific information indicates that compliance with the prevention action limit is not achievable, the infiltration system may not be installed or shall be modified to prevent infiltration to the maximum extent practicable in the absolute discretion of the City. Stormwater management goals. The following standards shall be met whenever possible, and proposed design, suggested location and implementation of practice to meet these goals shall be included in plans:

- (1) For existing development, design practices to retain soil particles greater than 40 microns on the site (twenty-percent reduction) resulting from a one-year, twenty-four-hour storm event, according to approved procedures, and assuming no sediment resuspension.
- (2) For street reconstruction, design practices to retain soil particles greater than 20 microns on the site (forty-percent reduction) resulting from a one-year, twenty-four-hour storm event, according to approved procedures and assuming no sediment resuspension.

§ 232-14. Maintenance of control measures.

A. Covenant and restrictions required. Following the final inspection and submission of as-built plans for all stormwater and erosion control measures specified in a plan, the owner shall record encumbrances upon the entire site covered by the plan which shall be binding on the owner and the owner's successors and assigns. The following documents shall be filed with the Jefferson County Register of Deeds:

- (1) Covenants and restrictions, in a form provided by the City, providing for the perpetual maintenance of all stormwater measures; and
 - (2) As-built plans and specifications showing the performance and design contemplated for each measure.
- B. Covenant and restrictions provisions. The covenants and restrictions shall contain the following:
- (1) The landowner shall maintain stormwater management measures in accordance with the stormwater maintenance provisions contained in the approved stormwater management plan.
 - (2) The City is authorized to access the property to conduct inspections of stormwater measures as necessary to ascertain whether the measures are being maintained and operating in accordance with the approved stormwater management plan.
 - (3) The City may specifically indicate any corrective actions required to bring the stormwater control measures into proper working condition and a reasonable time frame during which the corrective action must be taken.
 - (4) The City shall be authorized to perform the corrective actions identified in the inspection report if the landowner does not make the required corrections in the specified time period and shall authorize the collection of the costs as a special charge against the property pursuant to § 66.0627, Wis. Stats.
- C. Modification or termination. The covenants and restrictions may be modified only with the City's written consent. The covenants and restrictions shall be terminated when responsibility for maintenance of the stormwater management practice is legally transferred to the City or agency acceptable to the City through a written, binding agreement. The termination date of the covenants and restrictions required under Subsection A of this section shall be the date upon which the legal transfer of maintenance to the City or other City-approved agency is made effective.

§ 232-15. Off-site stormwater management.

- A. Off-site stormwater management is allowed, provided that all of the following conditions for the off-site facility are met:
- (1) The facility is in place;
 - (2) The facility is designed and adequately sized to provide a level of stormwater control that at least meets the standards of this chapter; and
 - (3) The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- B. All applicants are responsible to pay the cost to build off-site stormwater control measures which is proportionate to the contribution of stormwater runoff draining from the site to the off-site control measures.

§ 232-16. Technical standards and specifications.

All best management practices designed to meet the requirements of this chapter shall comply with the technical standards set forth in the following manuals and publications:

- A. Natural Resource Conservation Service's Field Office Technical Guide. Chapter 4 or its successor;
- B. Applicable construction, erosion control and stormwater management standards by the Wisconsin Department of Natural Resources; and
- C. Any other technical methodology approved by both the City and the Jefferson County Conservationist, including the Jefferson County Erosion Control and Stormwater Manual.

§ 232-17. Disposal of leaves in proximity to watercourses.

No person shall deposit unbagged piles of leaves within three feet of a street, gutter or other conveyance of water to a storm sewer. During the fall of each year, the City will publish a notice in the official newspaper identifying the time period during which leaves will be allowed to be raked onto the street. For purposes of this section, "wetland shall be defined as provided in § 23.32(1), Wis. Stats., and "navigable waters" shall be defined as provided in § 30.10, Wis. Stats.

§ 232-18. Fees.

- A. Application fee.
 - (1) General. The application fee for an erosion control and stormwater management permit shall be as set by the City Council. Where plat or certified survey map review fees are paid pursuant to Chapter 232, Land Division, of this Code for the same project covered by the proposed erosion control and stormwater management permit, then the application fee will be waived.
 - (2) Checklist control plan. The application fee for an erosion control and stormwater management permit requiring submission of a checklist control plan shall be as set by the City Council. Where a building permit fee is paid in connection with the same activity, then no additional fee need be paid in order to obtain the necessary erosion control and stormwater management permit.
- B. Engineering and inspection fees. In addition to the application fee, before any permit will be issued the applicant must pay the actual engineering fees or expenses incurred by the City in connection with review of the control plan(s) and the engineering fees or expenses estimated to be incurred for on-site inspection during the project. Where the application fee is waived, the applicant must still pay the engineering and inspection fees and expenses; however, such fees and expenses may not duplicate any engineering or inspection fees paid in connection with plat or certified survey map approval.

§ 232-19. Enforcement; violations and penalties.

- A. Violations. No land development of land disturbing activities within the scope of this chapter may occur without full compliance with the provisions of this chapter. Any person who violates or fails to comply with any provision of this chapter is subject to the enforcement and penalty provisions of this section.
- B. Enforcement. This chapter shall be enforced consistent with the policies and purposes underlying its adoption. The following enforcement actions, or any combination thereof, may be taken in case of a violation of this chapter:
 - (1) Voluntary compliance.
 - (2) Stop-work order. A stop-work order may be issued by the City enforcement agent if any land disturbing or land developing activity regulated under this chapter is being undertaken without a permit, the control plan is not being implemented in a good faith manner, or the conditions of the permit are not being met. Stop-work orders may be retracted when compliance with the chapter is obtained. The City enforcement agent has the authority to retract a stop-work upon satisfactory compliance.
 - (3) Revocation of permit. Where a stop-work order has been issued in order to obtain compliance with a control plan, the City enforcement agent may revoke the permit if the permittee does not cease the illegal activity or obtain compliance with the control plan or permit conditions within 24 hours from issuance of the stop-work order.
 - (4) City to perform work.
 - (a) Twenty-four hours after posting a stop-work order, the City may issue a notice of intent to the permittee or landowner or land user of the City's intent to perform work necessary to comply with this chapter.
 - (b) When a violation of this chapter or of the conditions of a permit causes sediment to deposit on any City street or public property, the City enforcement agent and/or other designated City officials or agents may proceed to remove and/or clean such sediment.
 - (c) The costs of the work performed by the City pursuant to Subsection B(4)(a) or (b) above, plus interest, shall be billed to the permittee or the landowner on whose property the work under Subsection B(4)(a) was performed, or from whose activity or property the sediment originated for work under Subsection B(4)(b), or may be recovered out of any security posted for such purpose. In the event that a permittee or landowner otherwise fails to pay the amount due, the Administrator/Clerk-Treasurer shall enter the amount due on the tax rolls and collect it as a special assessment against the property pursuant to § 66.0703, Wis. Stats.
 - (5) Injunction and other judicial remedies. Compliance with the provisions of this chapter may also be obtained by the City Council authorizing the City Attorney to commence appropriate action to enjoin violations, compel compliance, or pursue other appropriate judicial relief.
 - (6) Private remedies preserved. These enforcement provisions are not intended in any way to restrict or limit the rights of private parties to pursue whatever private legal

remedies they may have available as a result of any erosion, sediment or water runoff.

- (7) Penalties. Any person violating any provision of this chapter shall be subject to a forfeiture of not less than \$100 nor more than \$2,000 plus the actual cost of prosecution for each offense. Each day a violation exists shall constitute a separate offense. Citations for any violation of any provision of this chapter may additionally be issued by the City enforcement agent, and such citations shall be in conformance with the provisions of Chapter 1, Article II of this Code. Without limitation by enumeration, a violation of this chapter is occurring if any of the following conditions exist:
 - (a) Any land disturbing or land developing activity regulated under this chapter is being undertaken without a permit;
 - (b) The erosion control plan and/or stormwater management plan is not being implemented in a good faith manner;
 - (c) The conditions of the permit are not being met; or
 - (d) Any condition or activity that causes excessive runoff or erosion to adjacent land, public streets, or water bodies is occurring or being allowed to occur, in violation of § 232- 11 of this chapter.

- C. If the permittee has filed an appeal under § 232-20 prior to the expiration of the time for compliance under this section, the City may take action, perform work, or correct conditions only to the extent necessary to protect against or correct an imminent hazard or a condition that will cause or threatens to cause personal injury or damage to off-site property.

§ 232-20. Appeals and variances.

- A. Appeal or variance requests.
 - (1) By applicant or permittee. Any aggrieved applicant, permittee or land user may appeal any order, decision, determination or inaction of the City in administering or enforcing this chapter or may apply for a variance from the requirements of this chapter. A fee as set by the City Council must accompany any appeal or variance request involving a land disturbing activity subject only to an erosion control checklist plan. A fee as set by the City Council must accompany any appeal or variance request involving any other erosion control and stormwater management permit. Appeal or variance requests must be submitted in writing, state the grounds for the appeal or variance request, and be filed with the City Administrator/Clerk-Treasurer.
 - (2) By citizens. An appeal of any order, decision, determination or inaction of the City in administering or enforcing this chapter may be commenced upon the filing of a petition signed by 12 adult residents of the City and payment of a fee as set by the City Council. The appeal must be filed with the City Administrator/Clerk-Treasurer and must state written grounds for the appeal. A copy of any citizen appeal shall be delivered or mailed to the applicant or permittee by the City Administrator/Clerk-Treasurer within five working days of its filing, if any, with the City. The filing of a

citizen appeal, by itself, does not prohibit the commencement or continuation of any work or activity.

- (3) Appeal deadline. Appeals by applicants, permittees or citizens must be filed within 45 days of the order, decision, determination or inaction being appealed.
- (4) Multiple appeals prohibited. Once an appeal has been filed on a matter, no other appeal on the same order, decision, determination or inaction will be allowed. The Zoning Board shall consolidate appeals wherever possible to avoid a multiplicity of appeal proceedings and to hasten the final resolution of a matter. The Zoning Board may allow additional parties to join a pending appeal where appropriate and where such addition will not delay the proceedings.

B. Authority of Zoning Board of Appeals.

- (1) The City Zoning Board of Appeals shall hear and decide all variance requests and appeals in accordance with the provisions of § 62.23(7)(e). Wis. Stats., and this Code. Where provisions may conflict, the more stringent shall apply.
- (2) The Zoning Board of Appeals shall only grant such variances from the terms of this chapter as will not be contrary to the public health, safety or welfare where, owing to special conditions, a literal enforcement of the provisions of this chapter will impose an unnecessary hardship. Such variances may be granted only to the minimum extent necessary to afford relief from the unnecessary hardship. Before a variance may be granted, the City Engineer must find that the erosion control and/or stormwater management plan(s), to the extent possible and consistent with the need for a variance, will achieve compliance results comparable to those set forth in this chapter. In making such a finding, the City Engineer shall consider water quality and impacts to downstream conditions.
- (3) Appeals or variance requests shall be heard and decided within 30 days of receipt of the written request and payment of the appeal fee, unless an extension is agreed upon by the appellant and Zoning Board.

C. Chapter procedures prevail. Pursuant to 68.16, Wis. Stats. the City Council elects that the procedures for administrative review of decisions set forth in this chapter shall apply in lieu of the procedures of the Wisconsin Municipal Administrative Procedure Act.

D. Enforcement not stayed. The filing of an appeal or variance request does not preclude the City from commencing or continuing any of the enforcement actions set forth in § 232-19 or a forfeiture proceeding under this chapter unless the City Council specifically agrees to stay such enforcement.

§ 232-21. Financial responsibility.

The applicant shall provide, prior to issuance of the permit, an irrevocable letter of credit, certificate of deposit or certified check to the City in an amount equal to 125% of the estimated cost of all required control measures as determined by the City Engineer to guarantee that all required control measures will be taken or installed according to the approved plan(s).

A. Right to draw upon. The City shall have the right to draw upon the security for purposes of completing construction of the improvements or payment of its costs.

- B. Security for other purposes. If the construction of erosion control and stormwater management measures required by this chapter is required by a development agreement in connection with a plat or certified survey map, then security for performance of the control requirements may be included as part of the overall security required for installation of improvements under Chapter 310, Land Division, of this Code.
- C. Full release. The security shall remain in full force until released. The financial security shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer in the state that the stormwater practice has been installed in accordance with the approved plan.
- D. Pro rata release. The City may make provisions for a partial pro rata release of the financial security based on the completion of various development stages. Any reduced amount shall be adequate to cover all remaining costs plus twenty-five percent (25%).

First Reading: May 6, 2008

Second Reading: _____, 2008

Passed By A Vote of _____ to _____

**PUBLISH ASAP
NOT IN LEGAL SECTION
NEED AFFIDAVIT**