

**City of New Berlin
Storm Water Management**

Ordinance No. 2193

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AN ORDINANCE TO CREATE CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY
OF NEW BERLIN RELATING TO THE CONTROL OF
POST-CONSTRUCTION STORM WATER RUNOFF

The City of New Berlin Common Council of the City of New Berlin does hereby ordain that Chapter 20 of the Municipal Code of the City of New Berlin is created to read as follows:

CHAPTER 20
STORM WATER RUNOFF

S. 01. AUTHORITY

- (1) This ordinance is adopted by the City of New Berlin Common Council under the authority granted by s. 62.234 Wis. Stats. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under s. 62.23, Wis. Stats. Except as specifically provided for in s. 62.234 Wis. Stats., s. 62.23, Wis. Stats. applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The City of New Berlin Common Council hereby designates the City of New Berlin City Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by WPDES Storm Water Permits issued by the Department of Natural Resources under s. 147.021 Wis. Stats.

S. 02. FINDINGS OF FACT

The City of New Berlin Common Council finds that uncontrolled storm water runoff from land development activity has a significant impact upon water resources and the health, safety, general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled storm water runoff can:

- (1) degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, and diminishing stream base flows;
- (2) diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing loadings of nutrients 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 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.

S. 03. PURPOSE AND INTENT

- (1) **PURPOSE.** The general purpose of this ordinance is to set forth storm water management requirements and criteria which will diminish the threats to public health, safety, welfare, and the aquatic environment due to runoff of storm water from land development activity. Specific purposes are to:
 - (a) further the maintenance of safe and healthful conditions;
 - (b) prevent and control the adverse effects of storm water, prevent and control soil erosion, prevent and control water pollution, protect spawning grounds, fish, and aquatic life;
 - (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; prevent conditions that endanger downstream property;
 - (d) control building sites, placement of structures, and land uses, and promote sound economic growth.
- (2) **INTENT.** It is the intent of the City of New Berlin Common Council that this ordinance manage the long-term, post-construction storm water discharges from land development activities. The City of New Berlin Common Council recognizes that the preferred method of addressing storm water management problems and needs is through the preparation of comprehensive storm water management system plans for subwatershed areas which are designed to meet the purpose and intent of this ordinance. Where such system plans have been developed and approved by the City of New Berlin Common Council, it is the intent that all land development activities will include storm water management measures that meet performance standards set forth in those approved plans. Where such stormwater management system plans have not been developed or approved by the City of New Berlin Common Council, it is the intent of the City of New Berlin Common Council that the generic storm water management standards set forth in S.07(1) and S.07(2) of this ordinance be applied unless otherwise excepted by the City of New Berlin City Engineer.

S. 04. DEFINITIONS

- (1) "Administering authority" means the governmental employee, or a regional planning commission empowered under s. 62.234 Wis. Stats., designated by the City of New Berlin Common Council to administer this ordinance.
- (2) "Agricultural activity" means the planting, growing, cultivating, and harvesting of crops; growing and tending of gardens, and trees; harvesting of trees.

- (3) "Business day" means a day which both the offices of the City of New Berlin Engineering Department and of the permit holder are routinely and customarily open for business.
- (4) "Cease and desist order" means a court issued order to halt land developing activity that is being conducted without the required permit.
- (5) "Common plan of development or sale" means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land developing activity may take place at different times and on different schedules.
- (6) "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total rainfall depth.
- (7) "Discharge volume" means the quantity of runoff discharged from the land surface as the result of a rainfall event.
- (8) "Division of land" means the creation from one parcel of 5 or more parcels or building sites of 1 1/2 or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5 year period.
- (9) "Extra-territorial" means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1 1/2 miles of a fourth class city or village.
- (10) "Fee in lieu" means a payment of money to the City of New Berlin in place of meeting all or part of the storm water performance standards required by the ordinance.
- (11) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of New Berlin City Engineer by the permit holder to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (12) "Governing body" means town board of supervisors, county board of supervisors, city council, village board of trustees, or village council.
- (13) "Gross aggregate area" means the total area, in acres, of all land located within the property boundary containing the land development activity.
- (14) "Groundwater enforcement standard" means a numerical value expressing the concentration of a substance in groundwater which is adopted under s. 160.07 Wis. Stats., and s. NR 140.10 or s.160.09 Wis. Stats, and s. NR 140.12.; or any amendments thereto.
- (15) "Groundwater preventive action limit" means a numerical value expressing the concentration of a substance in groundwater which is adopted under s. 160.15 Wis. Stats., and s. NR 140.10, 140.12, or 140.20, or any amendment thereto.

- (16) "Impervious surface" means a surface that releases the rainfall as surface runoff during a large portion of the design rainfall event. Rooftops, sidewalks, parking lots, and street surfaces are examples of impervious surfaces.
- (17) "Infiltration" means the process by which rainfall or surface runoff percolates or penetrates into the underlying soil.
- (18) "Land development activity" means any construction or re-development of buildings, roads, parking lots, paved and unpaved storage areas, and similar facilities, but not including agricultural activity.
- (19) "Local municipality" means a town, county, village, or city.
- (20) "Maintenance agreement" means a legal document that is filed with the County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (21) "Wetlands" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include natural, mitigation, and restored wetlands.
- (22) "Non-storm discharge" means a discharge to the storm sewer system created by some process other than stormwater runoff.
- (23) "Non-structural measure" means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants in storm water that does not require the design or installation of fixed storm water management facilities.
- (24) "Off-site" means located outside the property boundary described in the permit application for land development activity.
- (25) "Other than residential development" means development of the following land uses: commercial; industrial; government and institutional; recreation; transportation, communication, and utilities.
- (26) "On-Site" means located within the property boundary described in the permit application for the land development activity.
- (27) "Peak flow discharge rate" means the maximum rate at which a unit volume of storm water is discharged.
- (28) "Permit" means a written authorization made by the City of New Berlin City Engineer to the applicant to conduct land development activities.
- (29) "Permit administration fee" means a sum of money paid to the City of New Berlin Engineering Department by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

- (30) "Pervious surface" means a surface that infiltrates rainfall during a large portion of the design rainfall event. Well managed lawns, fields and woodlands are examples of pervious surfaces.
- (31) "Post-construction storm water discharge" means any storm water discharged from a site following the completion of land disturbing construction activity and final site stabilization.
- (32) "Post-development condition" means the extent and distribution of land cover types, anticipated to occur under conditions of full development, that will influence stormwater runoff and infiltration.
- (33) "Pre-development condition" means the extent and distribution of land cover types present before the initiation of land development activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
- (34) "Pre-settlement condition" means the distribution of land cover types present before the initiation of development activity shall be considered to have runoff curve numbers not greater than 77 for hydrologic soil group D, not greater than 70 for hydrologic group C, not greater than 55 for hydrologic group B, and not greater than 30 for hydrologic group A.
- (35) "Pre-treatment" means the treatment of storm water prior to its discharge to the primary storm water treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.
- (36) "Regional Detention" means a flood storage project which provides storage benefits to more than one development or property owner.
- (37) "Residential development" means that which is created to house people, including the residential dwellings as well as all attendant portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, apartments, and trailer parks.
- (38) "Regional Facility" means a facility which provides flood control or water quality benefits to more than one development or property owner.
- (39) "Site restriction" means any physical characteristic which limits the use of a storm water best management practice as prescribed in the Wisconsin Storm Water Manual.
- (40) "Stop work order" means an order issued by the City of New Berlin City Engineer which requires that all construction activity on the site be stopped.
- (41) "Storm water management plan" means a document that identifies what actions will be taken to reduce storm water quantity and pollutant loads from land development activity to levels meeting the purpose and intent of this ordinance.
- (42) "Storm water management system plan" is a comprehensive plan developed to address storm water drainage and nonpoint source pollution control problems on a watershed or sub-watershed basis, and which meets the purpose and intent of this ordinance.

- (43) "Storm water runoff" means that portion of the precipitation falling during a rainfall event, or that portion of snow-melt, that runs off the surface of the land and into the natural or artificial conveyance or drainage network.
- (44) "Structural measure" means source area practices, conveyance measures, and end-of-pipe treatment that are designed to control storm water runoff pollutant loads, discharge volumes, and peak flow discharge rates.
- (45) "Waters of the state" means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, 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 the state or its jurisdiction.
- (46) "Wetland functional value" means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education.
- (47) "WPDES Storm Water Permit" means a permit issued by the Wisconsin Department of Natural Resources under s. 147.021 Wis. Stats. that authorizes the point source discharge of storm water to waters of the state.

S. 05. APPLICABILITY AND JURISDICTION

- (1) **APPLICABILITY.** This ordinance applies to land development activities which meet the applicability criteria specified in this section. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale that meets any of the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules:
 - (a) residential land development with a gross aggregate area of 5 acres or more;
 - (b) land development, other than a residential land development, with a gross aggregate area of 5 acres or more, or any nonresidential land development which creates an impervious area of 0.5 acres or more;
 - (c) land development activity of any size that, in the opinion of the City of New Berlin City Engineer, is likely to result in storm water runoff which exceeds the safe capacity of the existing drainage facilities or receiving body of water, which causes undue channel erosion, which increases water pollution by scouring or the transportation of particulate matter or which endangers property or public safety.
- (2) **JURISDICTION.** This ordinance applies to land development activities within the jurisdictional boundaries of the City of New Berlin.
- (3) **EXEMPTIONS.** This ordinance does not apply to land development activities conducted or contracted for by any state agency, as defined under s. 227.01(1) Wis. Stats., but also including the office of district attorney.

S. 06. DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS

Design and specification shall be based on established and accepted procedures, and/or must conform to the standards set forth in the General Guidelines for Compliance with the City of New Berlin Storm Water Management Ordinance, or set forth by the City Engineer. Any deviation from accepted procedures must be approved by the City of New Berlin City Engineer.

S. 07. STORM WATER MANAGEMENT STANDARDS

- (1) STORM WATER DISCHARGE QUANTITY. Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of storm water discharged from the site. Infiltration of storm water runoff from driveways, sidewalks, rooftops, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.

On-site management practices shall be used to meet the following minimum performance standards unless otherwise met through approved regional facilities:

- (a) The peak flow discharge rates of storm water runoff from the development shall not exceed those calculated for the series of design storms specified in S.07(1)(b) and pre-settlement conditions specified in S.07(1)(c). Discharge velocities must be non-erosive to discharge locations, outfall channels, and receiving streams.
- (b) Effective storm water detention storage shall be provided such that: the 100-year, 24 hour peak rate of runoff after the proposed activities will not exceed the peak rate of runoff which would have resulted from the 10-year, 24 hour storm event occurring over the land in the pre-settlement state.
- (c) When the Natural Resources Conservation Service (NRCS) procedures are used to calculate peak flow discharge rates and runoff volumes for the pre-settlement condition, NRCS curve numbers shall not exceed the following for the given soil hydrologic groups. The pre-settlement state curve number shall not be greater than 77 for hydrologic soil group D, not greater than 70 for hydrologic soil group C, not greater than 55 for hydrologic soil group B, and not greater than 30 for hydrologic soil group A.
- (d) When detention is required for runoff control, the detention facilities shall safely contain and/or safely pass the runoff of a 100-year storm event of any duration through a control structure designed to limit flows to the designated outlet rate.
- (e) Regional detention should be considered when practicable. All regional facilities shall be approved by the City of New Berlin City Engineer. Regional detention does not preclude the development from meeting all other applicable requirements of this ordinance.
- (f) Increases or decreases in the hydrology of wetlands shall be minimized to the extent practical. Where such changes are proposed, the impact of the proposal on

wetland functional values shall be assessed using a methodology acceptable to the City of New Berlin City Engineer. Significant degradation of wetland functional values shall be avoided.

- (2) **STORM WATER DISCHARGE QUALITY.** Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the quality of storm water discharged from the site. On-site management practices shall be used to meet the following minimum standard:
- (a) Storm water discharges shall be treated to remove, on an average annual basis, a minimum of 80% of the total suspended solids load. To achieve this level of control, storm water practices shall be designed to accommodate, at a minimum, the runoff volume resulting from 1.5 inches of rainfall.
 - (b) An active storage volume equal to the runoff volume under developed condition from the 2-year, 24-hour storm event shall be created unless other storm water treatment practices are used. The active storage volume shall be discharged over a period of no less than 24 hours and the discharge shall be submerged.
 - (c) Discharge of urban storm water pollutants to wetlands shall be minimized to the extent practical. Where such discharges are proposed, the impact of the proposed discharge on wetland functional values shall be assessed using a method acceptable to the City of New Berlin City Engineer. At a minimum, storm water discharges shall be pre-treated prior to discharge to wetlands. Significant degradation of wetland functional values due to storm water pollutant loads shall be avoided.
 - (d) Storm water discharges shall be pre-treated prior to infiltration where necessary to prolong maintenance of the infiltration practice and to prevent discharge of storm water pollutants at concentrations that will result in exceedances of groundwater preventive action limits or enforcement standards established by the Department of Natural Resources in NR 140 Wisconsin Administrative Code. Storm water shall not be injected underground through excavations or openings that would violate NR 812.05 Wis. Admin. Code.
 - (e) Storm water ponds and infiltration devices shall not be located closer to water supply wells than indicated below without first notifying the City of New Berlin City Engineer:
 - (i) 100 feet from a well serving a private water system or a transient, non-community public water system;
 - (ii) 1,200 feet from a well serving a municipal public water system, an other-than municipal public water system, or a non-transient non-community public water system;
 - (iii) the boundary of a recharge area to a wellhead identified in a wellhead area protection plan.
- (3) **EXCEPTIONS.** The City of New Berlin City Engineer may establish stormwater management requirements either more stringent or less stringent than those set forth in Sections S.07(1,2), provided that at least one of the following conditions applies.

- (a) the City of New Berlin City Engineer determines that an added level of protection is needed to protect sensitive resources,
 - (b) the City of New Berlin City Engineer determines that the land development activity is covered by an approved storm water management system plan that contains management requirements consistent with the purpose and intent of this ordinance.
 - (c) provisions are made to manage storm water by an off-site facility, provided that all of the following conditions for the off-site facility are met:
 - (i) the facility has been approved by the City of New Berlin City Engineer,
 - (ii) the facility is in place or will be in place for substantial completion of the development,
 - (iii) the facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the requirements of this ordinance,
 - (iv) the facility has a legally obligated entity responsible for its long-term operation and maintenance.
 - (d) The City of New Berlin City Engineer finds that meeting the minimum on-site management requirements of this ordinance is infeasible due to space or site restrictions. (Note: This provides exception for minimum size requirements.
- (4) FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT PRACTICES. The City of New Berlin City Engineer may waive all or part of the minimum on-site storm water management requirements under S.07(3), when a regional facility is planned. In setting the fee in lieu of, the City of New Berlin City Engineer shall consider an equitable distribution for the cost for land, engineering design, construction, and maintenance of the regional facility needed to serve the land development.
- (5) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in managing storm water runoff:
- (a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
 - (b) Emergency overland flow for all storm water facilities shall be provided to accommodate exceeding the safe capacity of drainage facilities and to prevent endangerment of downstream property or public safety.
- (6) MILWAUKEE METROPOLITAN SEWERAGE DISTRICT (MMSD) RULES ON SURFACE WATER AND STORM WATER RUNOFF MANAGEMENT. These rules are effective 1/1/02 and are hereby adopted by reference for those portions of the City within the ultimate sewer service area as established by MMSD. Said ultimate sewer service area is depicted on the MMSD sewer service map for the City of New Berlin. Future amendments to the MMSD rules are also adopted by reference. A copy of Chapter 13, as well as the MMSD sewer service map for the City of New Berlin shall be

on file and open to public inspection in the offices of the City Clerk and Engineering Department. The MMSD Rules and Storm Water Quantity Guidance materials on best management practices for peak storm water runoff apply to development adding 0.5 acre or more of impervious surface within the MMSD ultimate sewer service area for the City of New Berlin and are available to read and print from the District's website, www.mmsd.com.

The MMSD Rules on storm water runoff management and plan submittal requirements shall be complied with as to all property within the MMSD ultimate sewer service area, in addition to the other storm water provisions of this ordinance, including but not limited to plat approval under Chapter 275, construction site erosion control, and post construction storm water quality best management practices to abate pollutant runoff. A violation of the MMSD Rules shall be a violation of this chapter with respect to those properties within the MMSD ultimate sewer service area.

S. 08. PERMITTING REQUIREMENTS, PROCEDURES AND FEES

- (1) **PERMIT REQUIRED.** No land owner or land operator may undertake a land development activity subject to this ordinance without receiving a permit from the City of New Berlin City Engineer prior to commencing the proposed activity.
- (2) **PERMIT APPLICATION AND FEE.** Unless specifically excluded by this ordinance, any land owner or operator desiring a permit shall submit to the City of New Berlin City Engineer a permit application made on a form provided by the City of New Berlin City Engineer for that purpose.
 - (a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered by the City of New Berlin City Engineer: a storm water management plan, a maintenance agreement, and a non-refundable permit administration fee.
 - (b) The storm water management plan shall be prepared to meet the requirements of S.09 of this ordinance, the maintenance agreement shall be prepared to meet the requirements of S.10 of this ordinance, the financial guarantee shall meet the intent of S.11 of this ordinance, and fees shall be those established by the City of New Berlin Common Council as set forth in S.12 of this ordinance.
- (3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The City of New Berlin City Engineer shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
 - (a) Within 40 business days of the receipt of a complete permit application, including all items as required by S.08(2)(a), the City of New Berlin City Engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved. The City of New Berlin City Engineer shall base the decision on requirements set forth in S.07, S.09, and S.10 of this ordinance. For complex development projects, the City of New Berlin City Engineer shall notify the applicant of the need for additional review time.

- (b) If the storm water 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 of New Berlin City Engineer shall issue the permit.
 - (c) If the storm water permit application, plan or maintenance agreement is disapproved, the City of New Berlin City Engineer shall detail in writing of the reasons for disapproval.
 - (d) If additional information is submitted, the City of New Berlin City Engineer shall have 40 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 of New Berlin City Engineer to inform the permit applicant of a decision within 40 business days of a required submittal shall not be deemed to mean approval of the submittal and the applicant may not proceed as if a permit had been issued until the City Engineer responds in writing with a decision. If City Engineer, following the first 40 day period, fails to respond after written request to do so by applicant within 40 days of request, then the failure to respond shall be deemed to mean approval of the submittal, and the applicant may proceed as if a permit had been issued.
- (4) **PERMIT CONDITIONS.** 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 of New Berlin City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification to the permittee by first class mail to the applicant's address contained in the application. An action by the City of New Berlin City Engineer to suspend or revoke a permit may be appealed in accordance with S.14 of this ordinance.
- (a) Compliance with a permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 - (b) The permit holder shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
 - (c) The permit holder shall notify the City of New Berlin City Engineer at least 2 business days before commencing any work in conjunction with the storm water management plan, and within 3 business days upon completion of the storm water management measures. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the City of New Berlin City Engineer so that storm water management measure installations can be inspected during construction.
 - (d) Storm water management measure installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed storm water management measures must pass a final inspection to determine if they are in accordance with the approved storm water management plan and ordinance. The administering authority shall notify the permit holder in writing of any

changes required in such practices to bring them into compliance with the conditions of this permit.

- (e) The permit holder shall not make any changes to an approved storm water management plan without prior written authorization from the City Engineer.
 - (f) The permit holder shall maintain all storm water management measures in accordance with the storm water management plan until the measures either become the responsibility of the City of New Berlin, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
 - (g) The permit holder authorizes the City of New Berlin City Engineer to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under s. 66.60(16) Wis. Stats., or to charging such costs against the financial guarantee posted under S.11 of this ordinance.
 - (h) If so directed by the City of New Berlin City Engineer, the permit holder shall repair, at the permit holder's own expense, all damage to adjoining municipal facilities and drainage ways caused by storm water runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
 - (i) The permit holder shall permit property access to the City of New Berlin City Engineer for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 - (j) Where a storm water management plan involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the City of New Berlin City Engineer may require the permittee to make appropriate legal arrangements with adjacent property owners concerning the prevention of endangerment to property or public safety.
 - (k) The permit holder is subject to the enforceable actions detailed in S.13 of the storm water management ordinance if the permit holder fails to comply with the terms of this permit.
- (6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the City of New Berlin City Engineer notifies the permit holder that all storm water management measures have passed the final inspection required under Permit Condition d.

S. 09. STORM WATER MANAGEMENT PLANS

- (1) PLAN REQUIREMENTS. The storm water management plan required under S.08(2) of this ordinance shall contain any information the City of New Berlin City Engineer may need to evaluate the environmental characteristics of the area affected by land development activity, the potential impacts of the proposed development upon the quality and quantity of storm water discharges, the potential impacts upon water resources and

drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, storm water management plans shall contain at a minimum the following information:

- (a) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management measures; person(s) responsible for maintenance of storm water management measures 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:
 - (i) One or more site maps at a scale of not less than 1 inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site not to exceed 2 foot contour interval; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections, including time of travel and time of concentration applicable to each; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes from the site; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells located within 1,200 feet of storm water detention ponds, infiltration basins, or infiltration trenches; delineation of wellhead protection areas delineated pursuant to NR 811.16 Wis. Admin. Code.
 - (ii) Computations of peak flow discharge rates and discharge volumes for the 2-year/24 hour, 10-year/24 hour, and 100-year/24 hour storm events. All major assumptions used in developing input parameters shall be clearly stated. 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).
- (d) Post-development site conditions, including:
 - (i) 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.
 - (ii) Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.

- (iii) One or more site maps at a scale of not less than 1 inch equals 100 feet showing: revised pervious land use including vegetative cover type and condition; impervious land use including all buildings, structures, and pavement; revised topographic contours of the site not to exceed 2 foot contour interval; revised drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections, including time of travel and time of concentration applicable to each; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes; any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 - (iv) Computation of the runoff volume resulting from the 1.5 inch rainfall, and computations of peak flow discharge rates and discharge volumes for the 2-year/24 hour, 10-year/24 hour, and 100-year/24 hour storm events. All major assumptions used in developing input parameters shall be clearly stated. 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).
 - (v) Results of investigations of soils and groundwater required for the placement and design of storm water management measures.
 - (vi) Results of impact assessments on wetland functional values.
 - (vii) Design computations and all applicable assumptions for the storm water conveyance (open channel, closed pipe) system.
 - (viii) Design computations and all applicable assumptions for storm water quality measures (sedimentation type, filtration-type, infiltration-type) as needed to show that practices are appropriately sized to accommodate runoff from the 1.5 inch rainfall. For practice designs that depart from those specified in the "Wisconsin Storm Water Manual, Part 2," the results of continuous simulation modelling, conducted according to the guidelines established in this manual, shall be presented in such a way as to show the reduction in average annual total suspended solids loading from the developed site.
 - (ix) Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment measures.
- (e) A storm water management measure installation schedule.

- (f) A maintenance plan developed for the life of each storm water management measure including the required maintenance activities and maintenance activity schedule.
 - (g) Cost estimates for the construction, operation, and maintenance of each storm water management measure.
 - (h) Other information as needed by the City of New Berlin City Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
 - (i) All site investigations, plans, designs, computations, and drawings shall be prepared in accordance with accepted engineering practice and in accordance with The Wisconsin Storm Water Manual, Part Two: Technical Design Guidelines for Storm Water BMP's and certified by a Professional Engineer currently licensed in the State of Wisconsin.
- (2) EXCEPTIONS. The City of New Berlin City Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under S.07(3) of this ordinance.

S. 10. MAINTENANCE AGREEMENT

- (1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required for storm water management measures under S.08(2) of this ordinance shall be an agreement between the City of New Berlin and the permittee to provide for maintenance of storm water measures beyond the duration period of this permit. The agreement or recordable document shall be recorded with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the storm water management measures.
- (2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions:
- (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan.
 - (c) Identification of the landowner(s), organization or municipality responsible for long term maintenance of the storm water management measures.
 - (d) The landowner(s), organization, or municipality shall maintain storm water management measures in accordance with the schedule included in the agreement.
 - (e) The City of New Berlin City Engineer is authorized to access the property to conduct inspections of storm water management measures as necessary to

ascertain that the measures are being maintained and operated in accordance with the agreement.

- (f) The City of New Berlin City Engineer shall maintain public records of the results of the site inspections, shall inform the landowner responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water management measure into proper working condition.
- (g) That if the City of New Berlin City Engineer notifies the party designated under the maintenance agreement of maintenance problems which require correction, the specified corrective actions shall be taken within a reasonable time frame as set by the City of New Berlin City Engineer.
- (h) The City of New Berlin City Engineer is authorized to perform the corrected actions identified in the inspection report if the landowner does not make the required corrections in the specified time period. The City of New Berlin City Engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to s. 66.60(16) Wis. Stats.

S. 11. FINANCIAL GUARANTEE

- (1) ESTABLISHMENT OF THE GUARANTEE. The City of New Berlin City Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the City of New Berlin City Engineer. The financial guarantee shall be in an amount determined by the City of New Berlin City Engineer to be the estimated cost of construction and the estimated cost of maintenance during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the City of New Berlin City Engineer the authorization to use the funds to complete the project if the landowner defaults or does not properly implement the approved storm water management plan.
- (2) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:
 - (a) The City of New Berlin Common Council, upon recommendation of the City Engineer, shall release the portion of the financial guarantee established to assure installation of storm water measures, minus any costs incurred by the City of New Berlin City Engineer to complete installation of measures, upon submission of "as-built" plans by a Professional Engineer currently licensed in the State of Wisconsin and final acceptance by City of New Berlin City Engineer. An applicant may apply to the Common Council for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (b) The City of New Berlin Common Council, upon recommendation by the City Engineer may release the portion of the financial security established to assure maintenance of storm water measures, minus any costs incurred by the City of New Berlin City Engineer, at such time that the responsibility for storm water management measures maintenance is passed on to another entity via an approved maintenance agreement.

S. 12. FEE SCHEDULE

The fees referred to in other sections of this ordinance shall be established by the City of New Berlin Common Council, upon recommendation of the City Engineer, and may from time to time be modified by resolution. A schedule of the fees established by the City of New Berlin Common Council shall be available for review in the City of New Berlin Engineering Office.

S. 13. ENFORCEMENT AND PENALTIES

- (1) Any land development activity initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with said provisions.
- (2) The City of New Berlin City Engineer shall notify the responsible owner or operator by certified mail of any non-complying land development activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the City of New Berlin City Engineer, the permit holder shall correct work which does not comply with the storm water management plan or other provisions of this permit. The permit holder shall make corrections as necessary to meet the specifications and schedule set forth by the City of New Berlin City Engineer in the notice.
- (4) If the violations to this ordinance are likely to result in damage to properties, public facilities, or waters of the State, the City of New Berlin City Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of New Berlin City Engineer plus interest and legal costs shall be billed to the owner of title of the property.
- (5) The City of New Berlin City Engineer is authorized to post a stop work order on all land development activity in violation of this ordinance, or to request the City Attorney to obtain a cease and desist order.
- (6) The City of New Berlin 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 of New Berlin City Engineer or by a court of competent jurisdiction.
- (8) The City of New Berlin 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.

- (9) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture as set forth in Sec. 25.04 together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Every violation of this ordinance is a public nuisance. Compliance with this ordinance may be enforced by injunctive order at the suit of the City of New Berlin pursuant to s. 62.23(8) Wis. Stats. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.
- (11) When the City of New Berlin City Engineer determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the Storm Water Management Plan, or has failed to comply with schedules set forth in said Storm Water Management Plan, the City of New Berlin City Engineer or a party designated by the City of New Berlin 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 of New Berlin 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 S.11 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

S. 14. APPEALS

- (1) BOARD OF APPEALS. The Board of Zoning Appeals, created under Section 1.05(4) of the City of New Berlin zoning ordinance pursuant to s. 62.23(7)(e) Wis. Stats, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City of New Berlin City Engineer in administering this ordinance. The Board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals.
- (2) WHO MAY APPEAL. Appeals to the Board of Zoning Appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of New Berlin affected by any decision of the City of New Berlin City Engineer.

S. 15. SEVERABILITY

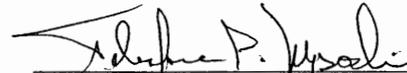
If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgement.

S. 16. EFFECTIVE DATE

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the City of New Berlin Common Council of the City of New Berlin on the 22nd day of April, 2003.

Passed and adopted by the Common Council of the City of New Berlin this 22nd day of April, 2003.

APPROVED:



Mayor Telesfore P. Wysocki

Countersigned:



Marilyn Gauger, City Clerk