

**ORDINANCE TO
CREATE ARTICLE III OF CHAPTER 453, STORMWATER UTILITY OF
THE CITY OF WATERTOWN GENERAL ORDINANCES**

**SPONSOR: ALDERPERSON WETZEL, CHAIR
FROM: PUBLIC WORKS COMMISSION**

Whereas, Stormwater runoff in the City of Watertown is managed to minimize flooding and reduce pollution impacts to local waterways; and,

Whereas, many stormwater management practices, drainage swales and easements exist on private property; and,

Whereas, the responsibility of maintenance of these systems has been unclear in the past; and,

Whereas, the Public Works Commission reviewed the proposed Article III of Chapter 453 at its February 28, 2023 meeting and recommends adoption of said Article III.

THE COMMON COUNCIL OF THE CITY OF WATERTOWN DOES ORDAIN AS
FOLLOWS:

SECTION 1. Article III of Chapter 453 is hereby created to read as follows:

**Article III
Stormwater Maintenance**

453-32 Scope. Stormwater Best Management Practices (BMP) are designed and constructed to reduce the amount of localized flooding and to improve downstream water quality. Inspections and maintenance of these BMPs are necessary to ensure that the BMP is functioning as designed.

453-33 Findings

- A. Lack of long-term maintenance of stormwater best management practices (BMP) can lead to malfunction or failure of the practice, resulting in flooding, damage to public infrastructure, nuisance conditions, property damage, reduced property value, environmental degradation, and other adverse impacts upstream or downstream of the BMP.
- B. The Wisconsin Department of Natural Resources (WDNR) Municipal Separate Storm Sewer System (MS4) Permit requires the City ensure that ongoing inspections and maintenance are performed on any stormwater BMPs that are designed and installed to meet City stormwater management requirements.

453-34 Definitions

- A. **Drainage and Stormwater Utility Easements** means an area that has been conveyed to a municipality for water runoff drainage, flood control, water quality treatment or access to storm sewer and stormwater management practices.

- B. Maintenance Agreement** means a legal document that provides for long-term maintenance of stormwater management practices.
- C. Maintenance Plan** means a document that is developed for the life of each stormwater management practices including the required maintenance activities and an inspection and maintenance activity schedule.
- D. Municipal Separate Storm Sewer System (MS4) Permit** means a National Pollutant Discharge and Elimination System (NPDES) permit issued to a municipality to control the amount of pollution reaching local waterways via the storm sewer system which is not a combined sewer system.
- E. Privately-owned BMPs** means any BMP located on property owned by a single owner, business, entity, condo associations, homeowners associations, stormwater associations, fractional ownership or other non-governmental entity.
- F. Owner** means any person(s) or entity holding fee title to the property upon which the stormwater management practice is located, as recorded at the local County Register of Deeds.
- G. Stormwater** means water from rain, snow or ice melt, or dewatering that moves over the land surface via sheet or channelized flow.
- H. Stormwater Best Management Practice (BMP)** means any permanent stormwater management facility designed to collect or manage the quantity or quality of stormwater runoff. Some examples include but are not limited to: wet or dry detention basin, infiltration trench or basin, biofilter, constructed wetland, stilling basin, sand filter, permeable pavement, underground detention, manufactured proprietary device, rain garden, vegetated buffer or filter strip, or any combination of these or other permanent stormwater management feature.
- I. Technical Standard** means a document that specifies design, predicted performance, construction or testing methods, material use, and operation and maintenance requirements for a stormwater management practice. Examples include but are not limited to those published by the Wisconsin Department of Natural Resources (WDNR), the USDA-Natural Resource Conservation Service (NRCS), the City of Watertown and other authoritative resources on stormwater management.

453-35 Applicability This article applies to all storm water management best management practices (BMPs) located within the jurisdictional boundaries of the City of Watertown and that portion of the Town of Emmet, Dodge County, Wisconsin, that is subject to the City's Plat Review Jurisdiction as set forth in Resolution Exhibit No., 6152 and recorded on September 25, 1997 in Volume 937 on Page 86 as document No. 851436 in the Dodge County Office of the Register of Deeds and the Chapter 288, Municipal Code, regardless of approval date, who issued the approval, construction date, or the design, location or ownership of the stormwater BMP.

- A.** Stormwater BMP Owners on property owned by multiple owners, including but not limited to homeowners associations, stormwater associations and condominium associations shall maintain the current owner or agent contact information on file with the City of Watertown Engineering Division.

453-36 Ultimate Responsibility

- A. Where no stormwater maintenance agreement exists, all lot and tract owners within a subdivision and property owners whose property benefits from the stormwater management system and facilities shall be ultimately responsible for the maintenance of the stormwater management system and facilities, whether or not a homeowners' association or property owners' association is the designated responsible entity.
- B. In the event the City obtains ownership of stormwater management systems and facilities once privately owned or owned by another governmental entity as the result of or arising from enforcement action under this section, as the result of annexation, or by any other means, the City shall have the right to continue to assess and charge each of the property owners benefiting from the stormwater management systems and facilities for ongoing maintenance, repair, replacement and administrative expenses relating to such stormwater management systems and facilities.
- C. Where existing City-approved private storm sewer and/or best management practices are in a state of disrepair, not constructed in accord with approved plans, or present an obstruction to the drainage system, and the resulting drainage overflows cause damage to the roadway or adjacent public or private lands, the Director of Public Works/City Engineer is authorized to resolve the drainage problem such that the system is functioning in accord with the approved design. Authorized actions include, but are not limited to: removal of any drainage obstructions (at existing inlets, at existing ditch lines and similar locations); regrading of existing ditch lines; repairing best management practices to bring them into compliance with the approved design; and construction of improvements to the stormwater management systems such that they are constructed in accordance with the approved plans. The costs of this work shall be charged back to the owner per 453-39(D).

453-37 Inspections

- A. **Inspection Frequency.** Inspections are required per the frequency described in the individual Stormwater Maintenance Plan and at least as often as described in the most current version of the City of Watertown Stormwater BMP Maintenance Program (on file with the City of Watertown Engineering Division), the City of Watertown Post-Construction Stormwater Management Program and the Wisconsin Department of Natural Resources Municipal Separate Storm Sewer System (MS4) Permit.
 - 1) The City of Watertown Engineering Division has detailed information on most stormwater BMPs located within the City. Please contact the Director of Public Works/City Engineer for individual BMP plans, maintenance plans, and City Stormwater Program information.
- B. **Inspection Reports.** The BMP Inspection Report shall contain the following information:
 - 1) BMP owner contact information
 - 2) BMP location with site map
 - 3) BMP condition (details include inlets, outlets, vegetation, debris, litter, riprap, sediment, water level, berms and swales)
 - 4) Recommendations for maintenance, as applicable
 - 5) Date of completed maintenance, if known

- 6) Date of Inspection
- 7) Signature of Inspector
- 8) BMP Type (i.e., wet or dry detention pond, biofilter, etc.)

C. **Inspection Report Submittal to City.** All stormwater BMP inspection reports shall be submitted to the City of Watertown Engineering Division within 60 days of inspection.

453-38 Maintenance

- A. **Routine Maintenance.** All stormwater BMPs shall be maintained in accordance with the measures described in the individual Stormwater BMP Maintenance Plan and as outlined in the most recent version of the Wisconsin Department of Natural Resources (WDNR) Conservation Technical Standards or other authoritative technical stormwater resource (technical standards).
- B. **Maintenance Required Following Inspection.** Upon receipt of an inspection report that recommends the completion of maintenance work or by order of the Director of Public Works/City Engineer, the owner(s) of a stormwater BMP shall, at the owner's cost, complete all maintenance work recommended in the report or ordered by the Director of Public Works/City Engineer within a reasonable time period, as determined by the Director of Public Works/City Engineer. All maintenance work shall comply with the applicable stormwater BMP maintenance plan and the applicable technical standards.
- C. **Confirmation of Maintenance to City.** The owner(s) of the stormwater BMP shall submit a maintenance report to the Director of Public Works/City Engineer within 60 days of the completion of BMP maintenance. The maintenance report shall include:
- 1) BMP owner contact information
 - 2) BMP location with site map
 - 3) Date of completed maintenance
 - 4) Signature of BMP owner(s)
 - 5) Accurate description of the completed work
 - 6) Photos of the completed work
 - 7) Any applicable professional verifications, including WDNR NR 528 sediment evaluation
 - 8) Any other information determined by the Director of Public Works/City Engineer as necessary to determine compliance with the approved stormwater BMP plans or this ordinance.
- D. **City Authorization to Complete Work.** The City is authorized to perform the corrected actions identified in the inspection report if the owner(s) does not make the required corrections in the specified time period. The City may perform corrective actions in the event of an emergency without prior notification to the owner. The City shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Such. VII of Ch. 66, Wis. Stats.

453-39 Drainage & Stormwater Utility Easements

- A. **Easements.** Stormwater utility / drainage easements should be identified on the preliminary and final plats, maintenance agreement or other document and recorded with the local County Register of Deeds to run in perpetuity with the property.

- B. Access.** The City has the authority to enter the easement area to access the stormwater utility / drainage swale and/or the stormwater BMP to inspect and perform maintenance.
- C. Maintenance Responsibilities.** The owner(s) is responsible for the ongoing routine maintenance activities including but not limited to mowing and removal of debris within the stormwater utility / drainage swale. Items that are prohibited from being stored within the stormwater utility / drainage swale or easement include:
- 1) Brush and compost bins and piles, fertilizers
 - 2) Wood piles
 - 3) Permanent structural landscaping features including but not limited to fences, retaining walls, raised garden beds, trees, shrubs, and filling or grading or land.
 - 4) Recreational furniture and equipment including but not limited to swingsets, sandboxes, firepits, and above ground pools.
 - 5) Grills
 - 6) Vehicles, trailers, boats or campers.
 - 7) Sheds and other storage structures.
 - 8) Any items that may prevent or block the managed flow of stormwater during a rain or snow melt event whether resting in place or by floating downstream.
- D.** The City is authorized to perform the corrected actions identified in the inspection report if the owner(s) does not make the required corrections in the specified time period. The City may perform corrective maintenance in the event of an emergency without prior notification to the owner. The costs of this work shall be charged back to the owner per 453-39(D).

453-40 Maintenance of Effort. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of Ch. NR 151, Wis. Adm. Code, in effect on or after October 1, 2004, the owner(s) shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this article, whichever is more stringent. Routine and occasional maintenance of these facilities is required by the owner.

453-41 Enforcement

- A.** The City shall notify the owner(s) by certified mail of any noncompliance with this article. 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.
- B.** Upon receipt of written notification from the City under Subsection B, the owner(s) shall correct work that does not comply with this article. The owner(s) shall make corrections as necessary to meet the specifications and schedule set forth by the City in the notice.
- C.** The City is authorized to refer any violation of this article to the City Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- D.** Any person, firm, association or corporation who does not comply with the provisions of this article shall be subject to a forfeiture of not less than \$100 nor more than \$1,000 per offense,

together with the costs of prosecutions. Each day that the violation exists shall constitute a separate offense.

- E. Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease-and-desist order before petitioning for or obtaining an injunction.
- F. When the City determines that the owner of a property has failed to be compliant with the requirements of this article, or has failed to comply with the schedules set forth in the applicable stormwater management plan, the City or a party designated by the City 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 shall keep a detailed account of the costs and expenses of performing this work. 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 from the year in which the work is completed.

453-42 Conflicting Ordinances. This ordinance supersedes all provisions of ordinances previously enacted by the City of Watertown relating to the long-term maintenance of stormwater management practices.

453-43 Declaration of Severability. If any section, clause or provision of this article is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall remain in force and shall not be affected by such judgement.

SECTION 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 3. This ordinance shall take effect and be in force the day after its passage and publication.

<i>DATE:</i>	<i>March 21, 2023</i>		<i>April 3, 2023</i>	
<i>READING:</i>	<i>1ST</i>		<i>2ND</i>	
	<i>YES</i>	<i>NO</i>	<i>YES</i>	<i>NO</i>
DAVIS				
LAMPE				
RUETTEN				
BARTZ				
LICHT				
SMITH				
SCHMID				
WETZEL				
ROMLEIN				
MAYOR MCFARLAND				
<i>TOTAL</i>				

ADOPTED April 3, 2023

CITY CLERK

APPROVED April 3, 2023

MAYOR