STORMWATER MANAGEMENT ORDINANCE

3/10/2015

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TABLE OF CONTENTS

TABLE OF CONTENTS 1

ARTICLE 1—AUTHORITY, PURPOSE AND DEFINITIONS 6

1-00. Statutory authority 6

1-01. City of Rockford Stormwater Management Plan 6

1-02. Purposes of this ordinance 6

1-03. Reference to watershed plans 8

1-04. Definitions 8

ARTICLE 2—REQUIREMENTS FOR STORMWATER MANAGEMENT 22

2-00. General information 22

2-01. General stormwater requirements 22

2-02. Site runoff requirements 23

2-03. Site runoff storage requirements (detention) 25

ARTICLE 3—EROSION AND SEDIMENT CONTROL/SWPPP FOR CONSTRUCTION PROJECTS 27

ARTICLE 4—PROTECTION OF SPECIAL MANAGEMENT AREAS 30

4-00. Reserved 30

4-01. Disclaimer 30

4-02. Statewide and regional permits 30

4-03. Floodplain management 30

4-04. Floodplain, regulatory floodplain, BFE and regulatory floodway locations 30

4-05. General performance standards 31

4-06. Public health protection standards 32

4-07. Building protection standards 33

4-08. Non-conforming structures 36

4-10. Requirements for wetland delineation 38

4-11. Mitigation to be local 39

4-12. Threatened and endangered species consultation 39

4-13. Wetland preservation during development 39

4-14. Buffer requirements 39

4-15. Carrying Capacity and Notification 40

4-16. Disclaimer of Liability **40**

ARTICLE 5—REQUIRED SUBMITTALS FOR STORMWATER MANAGEMENT PERMITS **41**

5-00. General requirements **41**

5-01. Duration and revision of permits **42**

5-02. Required submittals **42**

5-03. Application and project overview **43**

5-04. Plan set submittal **44**

5-05. Stormwater submittal **46**

5-06. Floodplain submittal **47**

5-07. Wetland submittal **48**

5-08. Performance security **48**

5-09. Maintenance schedule and funding **48**

5-10. Record drawings **49**

5-11. Terms of permit/denial—appeal **49**

ARTICLE 6—LONG TERM MAINTENANCE **50**

6-00. Long-term maintenance **50**

6-01. Transfer to permitting authority or other public entity **50**

6-02. Transfer to homeowner's or similar association **50**

6-03. Conveyance to one or more persons **51**

6-04. Incorporation of maintenance obligations in stormwater management permit **51**

6-05. Funding of long-term maintenance of stormwater facilities **52**

6-06. Inspections of Stormwater Drainage Systems and Special Management Areas **52**

ARTICLE 7—GENERAL PROVISIONS **53**

7-00. Scope of Regulation **53**

7-01. Exemptions **53**

7-02. Interpretation **53**

7-03. Warning and disclaimer of liability **53**

7-04. Severability **54**

7-05. Repealer **54**

7-06. Amendments **54**

7-10. Effective date 54

ARTICLE 8—VARIANCES 55

8-00. Purpose 55

8-01. Application for variance 55

8-02. Application fee 55

8-03. Public hearing 56

8-04. Granting of variances 56

8-05. Recommendations 58

8-06. Decision 58

8-07. Conditions 58

ARTICLE 9—ADMINISTRATION 60

9-00. Responsibility for administration 60

9-01. Duties of Director 60

9-02. Duties of Administrator 60

9-03 Duties of the Stormwater Board of Appeals 62

9-04. Representative capacity 62

9-05. Service 62

9-06. Publication 63

ARTICLE 10— PERFORMANCE SECURITY 64

10-00. General security requirements 64

10-01. Development security 64

10-02. Erosion and sediment control security 64

10-03. Letters of credit 65

ARTICLE 11—RESERVED 67

ARTICLE 12 – ILLICIT DISCHARGE DETECTION AND ELIMINATION 68

12-01. Responsibility for Administration. 68

12-02. Discharge Prohibitions. 68

12-03. Suspension of Access to the Storm Drain System. 69

12-04. Industrial or Construction Activity Discharges. 69

12-05. Monitoring of Discharges. 69

12-06. Requirements to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices. 70

12-07. Watercourse Protection. 70

12-08. Notification of Spills. 71

ARTICLE 13—ENFORCEMENT AND PENALTIES 72

13-00. Inspection and maintenance authority 72

13-01. Required inspections 72

13-02. Offenses 72

13-03. Offenses - penalties; remedies 72

13-04. Enforcement Measures After Appeal. 73

13-05. Cost of Abatement of the Violation. 74

13-06. Injunctive Relief. 74

13-07. Violations Deemed A Public Nuisance. 74

13-08. Penalties. 74

13-09. Remedies Not Exclusive. 74

13-10. Ultimate Responsibility 74

APPENDIX A—SAMPLE SPECIAL SERVICE AREA ORDINANCES 75

ORDINANCE NO. 77

§1. Incorporation of preambles 78

§2. Notice 78

NOTICE OF PUBLIC HEARING 78

SEE ATTACHED EXHIBIT A 78

§3. Miscellaneous 79

§4. Repealer; effective date 79

CITYOF ROCKFORD 81

ORDINANCE NO. 82

§1. Incorporation of preambles 83

§2. Final adjournment of Hearing. 83

§3. Establishment of Area 83

§4. Purpose of the establishing the Area 83

§5. Tax Levy **84**

§6. Filing **84**

§7. Repealer **84**

ARTICLE 1—AUTHORITY, PURPOSE AND DEFINITIONS

1-00. Statutory authority

(a) This ordinance shall be known, and may be cited, as the City of Rockford Stormwater Management Ordinance.

(b) The Rockford City Council adopts this ordinance pursuant to its authority to regulate stormwater management and govern the location, width, course, and release rate of all stormwater runoff channels, streams, and basins in the City. The statutory authority for this ordinance is contained in, but not limited to 65 ILCS 5/11-109:115 and 415 ILCS 51 *et seq*, and other applicable authority, all as amended from time to time.

1-01. City of Rockford Stormwater Management Plan

The City of Rockford Stormwater Management Plan outlines the watershed master planning for the City and the standard operating procedures to manage the City's National Pollutant Discharge Elimination System MS4 Phase 1 Permit.

1-02. Purposes of this ordinance

(a) The principal purpose of this ordinance is to promote effective, equitable, acceptable and legal stormwater management measures by establishing reasonable rules and regulations for development and for the regulation of stormwater and non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. Other purposes of this ordinance include—

(1) managing the effects of urbanization on stormwater drainage throughout the City of Rockford through planning, appropriate engineering practices and proper maintenance;

(2) protecting the public health and safety and reducing the potential for loss of human life and property;

(3) protecting the public from the degradation of water quality on a watershed basis;

(4) preserving and enhancing the natural hydrologic and hydraulic functions and natural characteristics of watercourses and floodplains to protect water quality, aquatic habitats, reduce damage, reduce soil erosion, provide recreational and aesthetic benefits and enhance community and economic development;

(5) controlling sediment and erosion in and from stormwater facilities, developments, agricultural fields, and construction sites and reducing and repairing streambank erosion;

(6) requiring planning for development to provide for water resource management, taking into account natural features such as vegetation, wildlife, waterways, wetlands and topography in order to reduce the probability that new development will create unstable conditions susceptible to erosion or degrade the quality of ground and surface waters;

(7) protecting environmentally sensitive areas from deterioration or destruction;

(8) protecting and enhancing the quantity and quality of potable groundwater and potable surface water supplies;

(9) requiring appropriate and adequate provision for site runoff control, especially when the land is developed with a large amount of impervious surface;

(10) requiring the design and evaluation of each site stormwater management plan to be consistent with watershed capacities;

(11) encouraging the use of stormwater storage and infiltration of stormwater in preference to stormwater conveyance;

(12) lessening the taxpayers' burden for disasters, repairs to public facilities and utilities, and relief operations;

(13) meeting the IDNR-OWR floodway permitting requirements delineated in 615 ILCS 5/18g, (*An Act in Relation to the Regulation of the Rivers, Lakes, and Streams of the State of Illinois* (1992)), as amended from time to time;

(14) complying with the rules and regulations of the National Flood Insurance Program thereby making federally subsidized flood insurance available to persons throughout the City;

(15) minimizing conflicts and incompatibilities between agricultural and urban drainage systems and maintaining agriculture as a viable and productive land use;

(16) encouraging cooperation and consistency in stormwater management activities within and between units of government having floodplain and stormwater management jurisdiction;

(17) restricting development in the floodplain to facilities that will not adversely affect the potential for damage;

(18) protecting and improving surface water quality and promoting beneficial uses of ponds, lakes, wetlands, rivers and streams by reducing point source and non-point source discharges of pollutants;

(19) requiring regular, planned maintenance of stormwater management facilities;

(20) requiring control of stormwater quantity and quality at the most site-specific or local level and preventing unauthorized or unmitigated discharge of flow offsite;

(21) protecting the quantity and quality of wetlands;

(22) allowing the use of simple technologies whenever appropriate and realistic, but requiring the use of more sophisticated techniques when necessary to insure the adequacy of stormwater controls;

(23) encouraging low impact development through the use of best management practices as outlined in the Illinois Urban Manual; and

(24) requiring compliance with this ordinance.

(b) To provide for the health, safety, and general welfare of the citizens of the City of Rockford through the regulation of stormwater and non-Stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes

methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives are:

(1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

(c) The purposes of this ordinance are consistent with and supersede the Plan.

1-03. Reference to watershed plans

(a) This ordinance recognizes the integrated nature of the watershed system and the need to study certain flood control alternatives and other stormwater management functions on a watershed-wide basis.

(b) Individual watershed plans or interim watershed plans which recognize the unique attributes of each watershed may be prepared and periodically updated for the major watersheds to identify management projects and establish criteria for development.

(c) Watershed plans or interim watershed plans may be adopted which contain more stringent requirements than those of this ordinance. Watershed-specific requirements established in such watershed plans or interim watershed plans will be set forth in Sections 1-05 through 1-17 of this ordinance.

1-04. Definitions

In this ordinance—

(1) ***Administrator*** means the person designated by the permitting authority to administer and enforce this ordinance, the City's designated Certified Floodplain Manager;

(2) ***agricultural land*** means land predominantly used for agricultural purposes;

(3) ***agricultural subsurface drainage*** is a water management technique driven by economic and safety concerns, where the rate at which surplus groundwater should be removed is determined primarily by the moisture/air requirements of the vegetation;

(4) ***applicable engineering practice*** means procedures, methods or materials recommended in standard engineering textbooks or other standard engineering references as suitable for the intended purpose;

(5) ***applicant*** means any person who submits an application for a permit under this ordinance;

(6) ***appropriate use*** means a use of the regulatory floodway permitted under Article 4;

(7) ***base flood*** means the flood having a one percent probability of being equaled or exceeded in a given year. The base flood is also known as the 100-year flood;

(8) ***basement*** means that portion of a building having its floor sub-grade (below ground level) on all sides;

(9) ***BFE*** or ***base flood elevation*** means the highest water surface elevation that can be expected during the base flood. The elevation in relation to mean sea level of the crest of the base flood;

(10) ***BMP*** or ***best management practices*** means the schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage

(11) ***building*** means a structure that is principally aboveground and is enclosed by walls and a roof; a building includes a gas or liquid storage tank, a manufactured home or prefabricated building. The term also includes recreational vehicles and travel trailers installed on a site for more than one hundred eighty (180) days per year;

(12) ***buffer*** means an area of natural or established vegetation that is predominantly deeply rooted native vegetated land adjacent to channels, wetlands, lakes, ponds or other neighboring areas for the purpose of stabilizing banks, reducing contaminants, including sediments, in stormwater that flows to such areas;

(13) ***Bulletin 70*** means *Frequency Distributions and Hydroclimatic Characteristics of Heavy Rainstorms in Illinois*, by Floyd Huff and James Angel of the Illinois State Water Survey (1989);

(14) ***channel*** means any river, stream, creek, brook, branch, natural or artificial depression, ponded area, flowage, slough, ditch, conduit, culvert, gully, ravine, wash, or natural or manmade drainageway which has a definite bed and bank or shoreline, in or into which surface, groundwater, effluent, or industrial discharges flow either perennially or intermittently;

(15) ***channel modification*** means alteration of a channel by changing the physical dimensions or materials of its bed or banks, and includes damming, riprapping (or other armoring), widening, deepening, straightening, relocating, lining, and significant removal of bottom or woody rooted vegetation, but does not include the clearing of debris or removal of trash or dredging to previously documented thalweg elevations and sideslopes;

(16) ***City*** means the City of Rockford, Illinois;

(17) ***Clean Water Act*** means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(18) ***commercial*** means having the qualities associated with the transaction of business where the traffic generated warrants construction of site improvements;

(19) ***community*** means the City of Rockford;

(20) ***compensatory storage*** means an artifically excavated, hydraulically equivalent volume of storage within the SFHA used to balance the loss of natural flood storage capacity when

artificial fill or structures are placed within the floodplain. The uncompensated loss of natural floodplain storage can increase off-site floodwater elevations and flows;

(21) ***CLOMA*** or ***Conditional Letter of Map Amendment*** means a FEMA comment letter on a development proposed to be located in, and affecting only that portion of, the area of floodplain outside the regulatory floodway and having no impact on the existing regulatory floodway or base flood elevations;

(22) ***CLOMR*** or ***Conditional Letter of Map Revision*** means a letter that indicates that FEMA will revise base flood elevations, flood insurance rate zones, flood boundaries or floodways as shown on an effective FIRM or FBFM, after the record drawings are submitted and approved;

(23) ***COE or ACOE*** means the United States Army Corps of Engineers;

(24) ***Construction Activity*** means activities subject to NPDES Construction Permits. NPDES Stormwater Phase II permits are required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(25) ***control structure*** means a structure designed to control the rate of flow that passes through the structure given a specific upstream and downstream water surface elevation;

(26) ***County*** means Winnebago County, Illinois;

(27) ***critical duration*** means the duration of a storm event that results in the greatest peak runoff;

(28) ***critical facility*** means an facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk. Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes and senior care facilities, major roads and bridges, critical utility site (telephone switching stations or electrical transformers, and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances);

(29) ***dam*** means any obstruction, wall embankment, or barrier, together with any abutments and appurtenant works, constructed to store or divert water or to create a pool (not including underground water storage tanks);

(30) ***Department*** means the Public Works Department – Stormwater Section;

(31) ***depressional storage*** means the volume contained below a closed contour on a one foot contour interval topographical map, the upper elevation of which is determined by the invert of a surface gravity outlet;

(32) ***developer*** means a person who creates or causes a development;

(33) ***development*** means any manmade change to the land and includes—

(A) the demolition, construction, reconstruction, or replacement of a building or an structural alteration to a building;

(B) the installation of utilities, construction of roads, bridges, culverts or similar projects;

(C) drilling and mining;

(D) the construction or erection of levees, walls, fences, dams, or culverts;

(E) channel modifications, filling, dredging, grading, excavating, paving, or other nonagricultural alterations of the ground surface;

(F) the storage of materials and the deposit of solid or liquid waste;

(G) the installation of a manufactured home on a site, the preparation of a site for a manufactured home, or the installation of a recreational vehicle on a site for more than 180 days per year;

(H) any wetland impact; and

(I) any other activity of man that might change the direction, height, or velocity of flood or surface water, including the extensive removal of vegetation;

development, however, does not include—

(J) maintenance and repair of existing buildings or facilities;

(K) repair or replacement of an existing parking lot outside the floodplain provided that no new impervious surfaces are added, there is no increase in peak flows, and there is no change in the location of the stormwater discharge;

(L) resurfacing of streets and highways outside the floodplain;

(M) resurfacing of publicly owned streets and highways within the floodplain provided the difference between the elevation of the road surface after resurfacing and the elevation of the road surface on the effective date is not more than two inches;

(N) for agricultural uses, maintenance of existing drainage systems for the limited purpose of maintaining cultivated areas and crop production; or

(O) for agricultural uses, improvements undertaken pursuant to a written NRCS conservation plan;

(34) ***Director*** means the Director of the Public Works Department;

(35) ***drainable water*** means water that readily drains from soil under the influence of gravity;

(36) ***drainage area*** means the land area above a given point that may contribute runoff flow at that point from rainfall;

(37) ***effective date*** means March 1, 2015;

(38) ***elevation certificate*** means a form published by FEMA used to certify the base flood elevation and the lowest elevation of usable space to which a building has been constructed;

(39) ***ephemeral*** stream means a stream whose bed elevation does not intersect the groundwater table and carries flow only during and immediately after a runoff producing rainfall event;

(40) ***erosion*** means the process whereby soil is detached by the action of water or wind;

(41) ***existing manufactured home park or subdivision*** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community;

(42) ***farmed wetlands*** means wetlands that have been identified as farmed wetlands by NRCS in a Certified Wetland Determination;

(43) ***FEMA*** means the Federal Emergency Management Agency and its regulations at 44 CFR 59-79, effective September 29, 1989, as amended;

(44) ***flood*** means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal ways or the unusual and rapid accumulation of runoff of surface waters from any source;

(45) ***FBFM*** or ***Flood Boundary and Floodway Map*** means a floodplain management map published by FEMA that depicts, based on detailed analysis, the boundaries of the base flood, the 0.2% probability flood and the floodway;

(46) ***flood frequency*** means a frequency normally expressed as a period of years, based upon a percent chance of occurrence in any given year from statistical analysis, during which a flood of a stated magnitude may be expected to be equaled or exceeded, as in the two-year flood frequency has a 50% chance of occurrence in any given year and the 100-year flood frequency has a 1% chance of occurrence in any given year;

(47) ***flood fringe*** means that portion of the floodplain outside of the designated floodway;

(48) ***FIRM*** or ***Flood Insurance Rate Map*** means a map published by FEMA on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to a community;

(49) ***FIS*** or ***Flood Insurance Study*** means a study of flood discharges and flood profiles for the City of Rockford adopted and published by FEMA;

(50) ***floodplain*** means that land typically adjacent to a body of water with ground surface elevations at or below the base flood or the 100-year frequency flood elevation and includes detached special flood hazard areas, ponding areas and the like;

(51) ***FPE*** or ***Flood Protection Elevation*** means the BFE plus two feet of freeboard for structures at any given location in the floodplain;

(52) ***Floodplain or Special Flood Hazard Area (SFHA)*** are synonymous and means those lands within the jurisdiction of the City of Rockford, the extraterritorial jurisdiction of the City of Rockford, or that may be annexed in the City of Rockford, that are subject to inundation by

the base flood. The floodplains of the City of Rockford are generally identified as such on panel numbers 170723 of the countywide Flood Insurance Rate Map of Winnebago County prepared by the Federal Emergency Management Agency and date September 6, 2006 and subsequently updated. Floodplain also includes those areas of known flooding as identified by the community. The floodplains of those parts of unicorporated Winnebago County that are within the extraterritorial jurisdiction of the City of Rockford or that may be annexed into the City of Rockford are generally identified as such on the Flood Insurance Rate Map prepared for Winnebago County by the Federal Emergency Management Agency and dated September 6, 2006;

(53) ***floodproof*** means any combination of structural and nonstructural additions, changes or adjustments to structures or property which reduce or eliminate flood damage to real estate, water and sanitary facilities, structures and their contents;

(54) ***Floodproofing Certificate*** means a form published by FEMA that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the FPE;

(55) ***floodway*** or ***designated floodway*** means the channel, onstream lakes and that portion of the floodplain adjacent to a stream or channel which is needed to store and convey the critical duration 100- year frequency flood discharge with no more than a 0.1 foot increase in flood stage due to the loss of flood conveyance or storage, and no more than a 10% increase in velocities;

(56) ***floodway conveyance*** means the measure of the flow carrying capacity of the floodway section and is defined using Manning's equation, $K=1.49\ AR^{b}/n$, where "n" is Manning's roughness factor, "A" is the effective area of the cross-section, and " R" is the ratio of the wetted area to the wetted perimeter;

(57) ***freeboard*** means an increment of height added to the BFE, groundwater table or 100-year design water surface elevation to provide a factor of safety for uncertainties in calculations, unknown local conditions, wave action and unpredictable effects such as those caused by ice or debris jams. The freeboard as defined by this ordinance as "Flood Protection Elevation" is based on two feet above the existing base flood elevation;

(58) ***functional*** means that a facility performs its primary purpose but may not be completed;

(59) ***groundwater*** means water that is located within soil or rock below the surface of the earth;

(60) ***groundwater control system*** means a designed system which may consist of tiles, underdrains, French drains or other appropriate stormwater facilities whose purpose is to lower the groundwater table to a predictable elevation throughout the year;

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

(62) ***historic structure*** means a structure or site that is (a) listed individually in the National Register of Historic Places, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to an historic district;

(c) a district preliminarily determined by the Secretary to qualify as a registered historic district; (d) individually listed on the State Inventory of Historic Places by the Illinois Historic Preservation Agency; or (e) individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency;

(63) ***hydraulics*** means the science and study of the mechanical behavior of water in physical systems and processes;

(64) ***hydraulically connected impervious area*** means those areas of concrete, asphalt and gravel that, along with building roof surfaces, convey flows directly to an improved drainage system consisting of storm sewers or paved channels and includes roadways drained by curb and gutter and storm sewers and driveways hydraulically connected to those roadways, but does not include roof surfaces which discharge to unpaved surfaces which absorb and filter stormwater runoff nor roadways whose primary conveyance is through open ditches and swales;

(65) ***hydraulically equivalent compensatory storage*** means compensatory storage either adjacent to the floodplain fill or not located adjacent to the development but which can be shown by hydrologic and hydraulic analysis to be equivalent to compensatory storage located adjacent to the development;

(66) ***hydrologically disturbed*** means an area where the land surface has been cleared, grubbed, compacted or otherwise modified that changes runoff, volumes, rates or direction;

(67) ***hydrology*** means the science of the behavior of water, including its dynamics, composition and distribution in the atmosphere, on the surface of the earth and underground;

(68) ***IDNR-OWR*** means the Illinois Department of Natural Resources, Office of Water Resources, or its duly authorized designee. The IDNR/OWR has jurisdiction over any stream serving a tributary of 640 acres or more in an urban area, or in the floodway of any stream serving a tributary area of 6,400 areas or more in a rural area. Construction on these streams requires a permit from the Department (Ill Admin. Code tit. 17, pt. 3700.30). The Department may grant approval for specific types of activities by issuance of a statewide permit which meets the standards defined in Section 4 of this ordinance;

(69) ***Illegal/Illicit Discharge*** means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section IV of this ordinance.

(70) ***Illicit Connections*** means an illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an Illegal Discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, or wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(71) ***Industrial Activity*** means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14) or any other commercial or industrial activities which result in discharges which the City determines are contributing substantial Pollutant loading to the

Storm Drain System

(72) ***interim watershed plan*** means a regional study of a watershed which does not address the entire range of purposes, goals and objectives outlined in the Plan;

(73) ***intermittent stream*** means a stream whose bed intersects the groundwater table for only a portion of the year on average or any stream that flows continuously for at least one month out of the year, but not the entire year;

(74) ***isolated wetland*** means a wetland that does not have an identifiable surface water connection to other Waters of the U.S.;

(75) ***LOMA*** or ***Letter of Map Amendment*** means the official determination by FEMA that a specific structure is not in a regulatory floodplain and amends the effective Flood Hazard Boundary Map, FBFM, or FIRM;

(76) ***LOMR*** or ***Letter of Map Revision*** means a letter from FEMA that revises BFE, flood insurance rate zones, flood boundaries or floodway as shown on an effective Flood Hazard Boundary Map, FBFM, or FIRM;

(77) ***lake*** means a body of water two or more acres in size which retains water throughout the year;

(78) ***lineal Waters of the U.S.*** means wetlands along creeks, streams, rivers, ponds, lakes, or impoundments that are hydraulically connected to surface water;

(79) ***lowest floor*** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 4 of this ordinance.

(80) ***major stormwater system*** means that portion of a stormwater facility needed to store and convey flows beyond the capacity of the minor stormwater system;

(81) ***manufactured home*** means a structure transportable in one or more sections which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities and includes park trailers, travel trailers and other similar vehicles onsite for more than 180 consecutive days but does not include a recreational vehicle;

(82) ***manufactured home park or subdivision*** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale;

(83) ***mass grading*** means development in which the primary activity is a change in topography affected by the movement of earth materials;

(84) ***minor stormwater system*** means all infrastructure including curb, gutter, culverts, roadside ditches and swales, storm sewers and subsurface drainage systems intended to convey stormwater runoff at less than a 100-year flood frequency;

(85) ***mitigation*** means measures taken to offset negative impacts from development in waters of the U.S. including wetlands or the floodplain;

(86) ***NFIP*** or ***National Flood Insurance Program*** means the federal program codified in Title 44 of the Code of Federal Regulations;

(87) ***National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit*** means a permit issued by the U.S. Environmental Protection Agency or the Illinois Environmental Protection Agency that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(88) ***net benefit in water quality*** means the institution of best management practices as part of a development that when compared to the pre-development condition can be judged to reduce downstream sediment or pollutant loadings;

(89) ***net watershed benefit*** means a finding that, when compared to the existing condition, the development will substantially reduce (more than 10%) downstream peak discharges, will reduce downstream flood stages (more than 0.1 feet), or will reduce downstream damage to structures occurring in the pre-development condition and must be demonstrated by detailed hydrologic and hydraulic analysis of watersheds on a regional scale as approved by the Administrator;

(90) ***new construction*** means structures for which the start of construction commenced or after the effective date of floodplain management regulations adopted by a community and includes and subsequent improvements of such structures;

(91) ***new manufactured home park or subdivision*** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the community;

(92) ***non-riverine*** means areas not riverine in character such as isolated depressional storage areas, ponds and lakes;

(93) ***Non-Stormwater Discharge*** means any discharge to the storm drain system that is not composed entirely of stormwater

(94) ***NRCS*** means the United States Department of Agriculture, Natural Resources Conservation Service;

(95) ***nuisance flow*** means primarily a dry weather flow resulting from groundwater pumped by individual sump pumps and other human activities not directly related to rainfall events and surface runoff;

(96) ***observation structures*** are structures built on a field tile where the pipe inflow and outflow is visible upon removal of a lid;

(97) ***open channel*** means a conveyance system with a definable bed and banks carrying the discharge from field tiles and surface drainage, but does not include grassed swales within farm fields under agricultural production which are ephemeral in nature;

(98) ***open water*** means surface water in lakes, ponds, impoundments and wetlands devoid of vegetative cover;

(99) ***OHWM*** or ***ordinary high water mark*** means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic;

(100) ***overland flow path*** means a design feature of the major stormwater system which carries flows in excess of the minor stormwater system design capacity in an open channel or swale, or as sheet flow or weir flow over a feature designed to withstand the particular erosive forces involved;

(101) ***parcel*** means a separate tract of land identified by its own legal description;

(102) ***perennial stream*** means a riverine watercourse whose thalweg intersects the groundwater table continuously and flows throughout the year;

(103) ***permitting authority*** means the community having jurisdiction under this ordinance to issue permits;

(104) ***person*** means an individual, partnership, corporation, limited liability company, unincorporated association, trust, municipal corporation, unit of local government or other government agency or authority, or any combination of any of the foregoing;

(105) ***Plan*** means the City of Rockford Stormwater Management Plan;

(106) ***plant communities*** means groups of plants with similar habitat requirements and planting regimes;

(107) ***Pollutant*** means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(108) ***pond*** means a body of water less than two acres in size which retains a normal water level year-round;

(109) ***Premises*** means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips

(110) ***primary gravity outlet*** means the outlet structure designed to meet the release rate requirements of this ordinance, the invert (lowest elevation) of which shall be considered the high water elevation for required stormwater retention;

(111) ***professional land surveyor*** means a land surveyor registered in the State of Illinois under the Illinois Land Surveyors Act (225 ILCS 330/1, *et seq.*, as amended);

(112) ***professional engineer*** means an engineer registered in the State of Illinois under the Illinois Professional Engineering Practice Act (225 ILCS 325/1, *et. seq.*, as amended);

(113) ***public flood control project*** means a flood control project which will be operated and maintained by a public agency or entity to reduce flood damage to existing buildings and structures which includes a hydrologic and hydraulic study of the existing and proposed conditions of the watershed;

(114) ***public flood easement*** means an easement acceptable to the appropriate jurisdictional body that meets the regulations of IDNR-OWR, the Department and the community and provides legal assurances that all areas subject to flooding in the created backwater of the development will remain open to allow flooding;

(115) ***record drawings*** means drawings prepared, signed and sealed by a professional engineer or professional land surveyor representing the final record of the actual in-place elevations, locations of structures and topography;

(116) ***redevelopment*** means development on a developed site devoted to an existing urban land use the stormwater from which discharges into an existing stormwater facility either owned or maintained by a unit of local government, or discharges directly onto a regulatory floodplain; redevelopment includes the widening of an existing street or highway owned by a unit of local government;

(117) ***registered structural engineer*** means a person licensed under the laws of the State of Illinois as a structural engineer;

(118) ***regulatory floodplain*** means the floodplain depicted on maps recognized by IDNR-OWR for regulatory purposes;

(119) ***regulatory floodway*** means those portions of the floodplain depicted as floodway on maps recognized by IDNR-OWR for regulatory purposes;

(120) repetitive loss means flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred;

(121) ***restrictive bridge or culvert*** means a bridge or culvert that crosses a floodplain and cannot convey the base flood without causing increases in the upstream flood profile;

(122) ***retention facility*** means a facility which stores stormwater runoff without a gravity release;

(123) ***riverine*** means related to, formed by or resembling a channel and includes creeks and rivers;

(124) ***runoff*** means the waters derived from melting snow or rain falling within a tributary drainage basin that exceeds the infiltration capacity of the soils of that basin;

(125) ***seasonal high groundwater table*** means the upper limits of the soil temporarily saturated with water, being usually associated with spring wetness conditions which may be indicated by soil mottles with a Munsell color of two chroma or less;

(126) ***sedimentation*** means the process that deposits hydraulically moved soils, debris and other materials on other ground surfaces or in bodies of water or stormwater drainage systems;

(127) ***sedimentation trap*** means a structure or area that allows for the temporary deposit and removal or disposal of sediment materials from stormwater runoff;

(128) ***seepage*** means the movement of drainable water through soil and rock;

(129) ***site*** means all of the land contemplated to be part of a coordinated development of one or more parcels;

(130) ***site runoff storage facility*** means a manmade structure for the temporary storage of stormwater runoff with a controlled release rate;

(131) ***SFHA*** or ***Special Flood Hazard Area*** means an area having special flood, mudslide or mudflow, or flood related erosion hazards and which is shown on an FHBM or FIRM as Zone A, AO, A1- 30, AE, A99, AH, VO, V1-30, VE, V, M or E. See Floodplain;

(132) ***special management area*** means a floodplain, regulatory floodplain, wetland, wetlands mitigation area, stream, river, or other water body;

(133) ***Storm Drain System*** means apublicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels or water courses, reservoirs, and other drainage structures. In this Ordinance, the Storm Drain System may also be referred to as the "MS4"

(134) ***Stormwater*** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation

(135) ***stormwater facility*** means all ditches, channels, conduits, bridges, culverts, levees, ponds, natural and manmade impoundments, wetlands, riparian environment, tile, swales, sewers or other natural or artificial structures or measures which serve as a means of draining surface water and groundwater from land;

(136) ***stormwater management permit*** means the permit issued under Article 5;

(137) ***Stormwater Pollution Prevention Plan*** means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable

(138) ***structure*** (see "Building");

(139) ***substantial damage*** means damage of any origin sustained by a structure whereby the cumulative percentage of dage during the life of the building equals or exceeds fifty percent (50%) of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes "Repetitive Loss Buildings" (see definition):

(140) ***substantial improvement*** means any reconstruction, rehabilitation, addition or improvement of a structure taking place over the life of the building in which the cumulative percentage of improvements: (a) equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started, or (b) Increases the floor are by more than twenty percent (20%). "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done. The term does not include: (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places;

(141) ***subsurface drainage*** means the removal of excess soil water to control water table levels at predetermined elevations for structural, environmental or other reasons in areas already developed or being developed for agricultural, residential, industrial, commercial or recreational uses;

(142) ***SWPPP*** means Stormwater Pollution Prevention Plan;

(143) ***Technical Manual*** means the manual adopted by the City which refers to this ordinance and provides additional explanations and examples;

(144) ***thalweg*** means a line along the lowest point in a channel;

(145) ***topsoil*** means the uppermost part of the soil, ordinarily moved in tillage, or its equivalent in uncultivated soils;

(146) ***transition section*** means the reaches of the stream or floodway where water flows from a narrow cross-section to a wide cross-section, or vice versa;

(147) ***usable space*** means space used for dwelling, storage, utilities or other beneficial purposes and includes basements;

(148) ***USEPA*** means United States Environmental Protection Agency

(149) ***Wastewater*** means any water or other liquid, other than Stormwater, discharged from a facility

(150) ***Watercourse*** means a natural or artificial channel through which water flows, ie. a stream or river.

(151) ***water table*** means the upper limit of a free water surface in a saturated soil or underlying material;

(152) ***Waters of the State*** means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the State of Illinois, except that sewers and treatment works are not included except as specially mentioned; provided, that nothing herein contained shall authorize the use of natural or otherwise protected water as sewers or treatment works except that in-stream aeration under agency permit is allowable.

(153) ***Waters of the U.S.*** is defined by COE in 33 CFR 328.3 and, for purposes of this ordinance, includes wetlands, lakes, rivers, streams, creeks, bogs, fens, ponds and isolated wetlands but does not include maintained stormwater facilities;

(154) ***watershed*** means all land drained by, or contributing water to the same stream, lake, stormwater facility, or draining to a point;

(155) ***watershed characteristics*** means the land use, physiology, habitat, climate, drainage system and community profile of a watershed;

(156) ***watershed plan*** means a study and evaluation of an individual drainage basin's stormwater management, floodplain management, water quality and flood control needs capabilities adopted by the City;

(157) ***wetland*** is defined by COE and the USEPA as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas;

(158) ***wetland impact*** means—

(A) the dredging or filling of any wetland having an FQI greater than 25; or

(B) the dredging or filling of any other wetland if—

(i) the effect would be that cumulatively, since the effective date, 0.10 acres (4,356 sq. ft.) or more of the wetlands on the site have been dredged or filled; and

(ii) such wetland is not then regulated by COE; or

(iii) such dredging or filling is not an approved impact under a conservation plan administered by any federal agency under the Food Security Act, as amended (16 U.S.C. § 3801, *et seq.*);

(159) ***wetland mitigation*** means the creation and long-term maintenance of wetlands to offset wetland impacts from development;

(160) ***wetland mitigation facility*** means a parcel in the City specifically dedicated for the creation and long-term maintenance of wetlands and other aquatic resources and includes any area designated as a compensatory storage facility when such area is used for wetland mitigation; and

(161) ***wetland mitigation bank*** means one or more parcels in the City approved by COE or the Director where wetlands and/or other aquatic resources are restored, created, enhanced or, in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

(Sections 1-05 through 1-17 reserved)

ARTICLE 2—REQUIREMENTS FOR STORMWATER MANAGEMENT

2-00. General information

(a) All developments shall meet the requirements of Sec. 2-01, 2-02 and Articles 3 and 6.

(b) Developments shall comply with Sec. 2-03 if—

(1) two or more one or two family residences are to be constructed on a site 0.5 acre or more in size;

(2) a single-family attached dwelling, apartment or condominium, attached townhome or other multifamily residential building comprised of more than two units is to be constructed on a site 0.5 acre or more in size;

(3) any non-residential land use is to be developed or redeveloped on a site 0.5 acre or more in size, unless such development consists solely of the installation, repair or replacement of the underground or overhead lines of a public utility within a public right-of-way;

(4) road development after the effective date of this ordinance in rights-of-way under the ownership or control of a unit of local government exceeds in the aggregate one acre; or

(5) the repair or replacement of an existing parking lot or privately owned road that results in any additional impervious surface, an increase in peak flows, a change in the location of the stormwater discharge, or an increase in the elevation of the parking or driving surface.

2-01. General stormwater requirements

(a) No development shall—

(1) result in any new or additional expense to any person other than the developer for flood protection; or

(2) increase flood elevations or decrease flood conveyance capacity upstream or downstream of the site.

(b) Analysis and design of all stormwater facilities required for a development shall—

(1) comply with the standards and criteria established in any applicable watershed plan or interim watershed plan; and

(2) be consistent with the Technical Manual.

(c) (1) Stormwater facilities shall be functional before any building permit is issued for any other construction on a site to be comprised when finished of more than one parcel.

(2) Building permits may be issued but stormwater facilities shall be functional where practicable before any other construction begins on a site to be comprised when finished of only one parcel.

(d) All developments shall have an overland flowpath at the downstream limit of the site that will pass the base flood flow without increasing flood damage. If the upstream drainage area is less than 20 acres, a storm sewer pipe and inlet sized for the base flood may be constructed in lieu of

providing an overland flowpath. Overland flowpaths internal to the site shall be considered part of the major stormwater system and shall be designed for conveyance of a minimum of one cfs per tributary acre without damage to structures.

(e) All usable space in new buildings or added to existing buildings hydraulically connected to a major stormwater system, site runoff storage facility or overland flowpath shall be elevated, floodproofed or otherwise protected to at least two feet above the 100-year design elevation or current FIS elevation, whichever is greater. The design elevation is the elevation associated with the design release rate as determined in Sec. 2-02(c).

(f) The design of any development shall incorporate the following specific planning principles:

(1) Impervious surfaces are the minimum necessary to satisfy the intended design function. Where requirements of zoning ordinances conflict with this principle, consideration has been given to asking for a zoning variance.

(2) Where feasible, allow sufficient right-of-way and easement widths so that stormwater runoff may be conveyed in vegetated swales. Storm sewers may be used for conveyance of nuisance flows and where conveyance in vegetated swales is impractical.

(3) Existing open channels have been preserved and incorporated into the design.

(4) Best management practices have been used in the site drainage plan.

(5) Existing high-quality wetlands have been avoided, preserved or enhanced.

(6) When applicable, retention and infiltration of stormwater onsite have been enhanced to the extent practicable to reduce the volume of stormwater runoff and the quantity of runoff pollutants.

(g) The function of existing onsite depressional storage shall be preserved as an additional volume to required site runoff storage. When the depressional storage is removed it must be compensated for in the site runoff storage facility at a 1:1 ratio. Offsite areas tributary to the existing depressional storage shall be routed through the site runoff storage facility unless the existing depressional storage is reserved independently. This requirement is in addition to the site runoff storage requirements of Sec. 2-03.

2-02. Site runoff requirements

(a) Stormwater facilities shall be required and designed so that runoff exits the site at the point where it exited prior to development (unless a change is required and approved in writing by the Administrator) and in a manner so as not to increase flood damage downstream. Concentrated discharges from new developments must enter conveyance systems capable of carrying the design flow rate without increasing flood damage, erosion or maintenance costs downstream.

(b) Minor stormwater systems shall be sized to convey runoff from the tributary watershed under fully developed conditions consistent with the City of Rockford Stormwater Technical Manual.

(c) Major stormwater systems shall be sized to carry the base flood without causing additional flood damage.

(d) Stormwater systems shall properly incorporate and be compatible with existing subsurface and surface drainage systems including agricultural systems. Designs shall not cause damage to existing drainage systems or to existing adjacent or tributary agricultural land uses. The following principles and requirements shall be observed in the design:

(1) Offsite outfall: Agricultural subsurface and surface drainage systems shall be evaluated with regard to their capacity and capability to properly convey low flow groundwater and site runoff storage facility release without damage to downstream structures and land uses. If the outfall drain tile and surface drainage systems prove to be inadequate it will be necessary to modify the existing systems or construct new systems which will not conflict with the existing systems and will not impact existing land uses.

(2) Onsite: Agricultural drainage systems shall be evaluated in accordance with Article 5. All existing onsite agricultural drain tile not serving a beneficial use shall be abandoned by trench removal prior to other development and recorded on record drawings. If any existing drain tiles continue to upland watersheds the developer must maintain drainage service during construction until new storm sewers can be installed for a permanent connection.

(3) Offsite tributary: Existing drainage systems shall be evaluated with regard to existing capabilities and reasonable future expansion capacities. All existing tributary drain tiles shall be incorporated into the new stormwater system including observation structures located at the limits of the site and shall provide a free flow discharge. Agricultural tributary surface conveyance shall be accepted by the new development with consideration given to water quality and sediment filtering control.

(4) New roadway construction shall preserve existing subsurface systems within the right-of-way.

(e) Design runoff rates shall be calculated using event hydrograph methods. Acceptable event hydrograph methods are HEC-HMS, HEC-1 (SCS runoff method), TR-20 or TR-55 tabular method. Event methods must incorporate the assumptions contained in Sec. 2-03(b). Design runoff rates for minor conveyance systems may be calculated using the Rational Method if the design watershed is less than 20 acres. A different hydrograph method may be used if reviewed and approved by the Administrator.

(f) Any design runoff rate calculation method shall use Bulletin 70 northwest sectional rainfall statistics and shall calculate flow from all tributary areas upstream of the point of design. Peak discharges for conveyance design purposes shall be based on the critical duration considering the appropriate rainfall distribution.

(g) Major and minor stormwater systems shall be located within easements or rights-of-way explicitly providing for public access or maintenance of such facilities. New facilities constructed offsite pursuant to Sec. 2-02(d) need not comply with this requirement.

(h) Maximum flow depths for new transverse stream crossings shall not exceed one foot at the crown of the road during the base flood condition. The maximum flow depth on a roadway shall not exceed six inches at the crown for flow parallel to the roadway. For flow over a roadway or parallel to a roadway the product of the flow depth (in feet) and velocity (in feet per second) shall not exceed four for the base flood condition.

(i) Transfers of waters between watersheds (diversions) shall be prohibited except when such transfers will not violate the provisions of Sec. 2-01(a) and are otherwise lawful.

(j) Developments shall incorporate all best management practices required under the Clean Water Act (33 U.S.C. § 1251, *et seq.*, as amended).

2-03. Site runoff storage requirements (detention)

(a) The area of hydrological disturbance on the site shall be used to calculate the required site runoff storage volume. The tributary area of the site at the point of discharge shall be used to calculate the allowable release rate of the primary restrictor for the site runoff storage facility.

(b) Absent any applicable watershed plan or interim watershed plan, sufficient storage shall be provided such that the probability of the post-development release rate exceeding 0.2 cfs/acre of development shall be less than 1% per year. Design runoff volumes shall be calculated using event hydrograph methods.

(c) Event hydrograph routing methods such as HEC-1, HEC-HMS, TR-20 or TR-55 tabular method using SCS curve number methodology shall be used to calculate design runoff volumes. Other hydrograph methods may be used if reviewed and approved by the Administrator. Event methods shall incorporate the following assumptions:

(1) antecedent moisture condition equals two;

(2) appropriate Huff rainfall distribution except that SCS Type II distribution is acceptable with TR-55 tabular method only; and

(3) 24-hour duration storm with a 1% probability (100-year) of occurrence in any one year as specified by Bulletin 70/71 northwest sectional rainfall statistics.

(d) For sites where the undeveloped release rate is less than the maximum release rate in Sec. 2-03(b), the developed release rate and corresponding site runoff storage volume shall be based on the existing undeveloped release rate for the development site.

(e) Hydraulic computations for the release structure must assume appropriate backwater conditions considering the likelihood of concurrent flood events on the site and receiving stream.

(f) Reserved.

(g) Storage facilities shall be designed and constructed with the following characteristics:

(1) Water surface depths two feet above the base flood elevation will not damage the storage facility.

(2) The storage facilities shall be accessible and easily maintained.

(3) All design site runoff storage volume shall be provided above the seasonal high groundwater table or the invert elevation of the groundwater control system.

(4) Storage facilities shall facilitate sedimentation and catchment of floating material. Unless specifically approved by the Administrator, concrete lined low flow ditches shall not be used in site runoff storage basins.

(5) Storage facilities shall minimize impacts of stormwater runoff on water quality by

incorporating best management practices.

(6) Storage facilities shall maximize the distance between site runoff storage inlets and outlets to the extent possible.

(7) Storage facilities shall be designed such that the existing conditions pre-development peak run- off rate of the 100-year, critical duration rainfall will not be exceeded assuming the primary restrictor is blocked.

(8) Storage facilities with single pipe outlets shall have a minimum inside diameter of twelve inches. If design release rates necessitate a smaller outlet, structures such as perforated risers or removable flow control orifices not less than 4 inches shall be used.

(9) A mechanically opened outlet to draw down the permanent pool or retention area for maintenance purposes to the lowest available invert at the site boundary shall be provided.

(10) Storage facilities shall be designed for gravity flow discharge. A pump system will not be permitted.

(11) For sites that do not meet the minimum 4 inch orifice requirement, stormwater best management practices shall be incorporated into the parking lot and site design.

(h) Storage facilities located within the regulatory floodplain shall (a) comply with Article 4; and (b) store the required amount of site runoff to meet the release rate requirement under all streamflow and backwater conditions up to the ten-year flood elevation on the adjacent receiving watercourse. The Administrator may approve designs which can be shown by detailed hydrologic and hydraulic analysis to provide a net watershed benefit not otherwise realized by strict application of the requirements set forth in (a) and (b) of this subsection.

(j) Storage facilities located within the regulatory floodway shall (a) meet the requirements for locating storage facilities in the regulatory floodplain; (b) be evaluated by performing hydrologic and hydraulic analysis consistent with the standards and requirements for watershed plans; and (c) provide a net watershed benefit.

(k) Site runoff storage facilities may be located offsite if (a) the offsite storage facility meets all of the requirements of this Article; (b) adequate storage capacity in the offsite facility is dedicated to the development; and (c) the development includes means to convey stormwater to the offsite storage facility.

(l) Site runoff storage volume provided by enlarging existing regulatory floodplain storage (onstream site runoff storage) will be allowed only as a variance. The applicant must demonstrate that flood damage will not be increased and the development will not increase flood flows for both the two-year and 100- year floods.

(m) Structures built across the channel to impound water to meet site runoff storage requirements shall be prohibited on any perennial stream unless part of a public flood control project with a net watershed benefit. Those streams appearing as blue on a USGS Quadrangle Map shall be assumed to be perennial unless better data is provided by the developer. In all cases it must be demonstrated that all such structures will not cause short-term or long-term stream instability. Where such facilities are approved the applicant must also comply with Sec. 2-03(g).

ARTICLE 3—EROSION AND SEDIMENT CONTROL/SWPPP FOR CONSTRUCTION PROJECTS

3-00. Erosion and Sediment Control & Stormwater Pollution Prevention Plan

(a) All projects within the City of Rockford limits shall follow the requirements as detailed in the Illinois Environmental Protection Agency's General Construction Permit (ILR10).

(b) The City of Rockford reserves the right to be more restrictive than the general construction permit if the administrator, or their designee, considers it necessary. This may require erosion and sediment control plans be submitted for land disturbance less than 1 acre.

(c) Erosion and sediment control planning shall be part of the initial site planning process. In planning the development of the site, the applicant shall consider the sensitivity of existing soils to erosion and topographical features such as steep slopes, stream corridors and special management areas which must be protected to reduce the amount of erosion and sediment which occurs. Where appropriate, existing vegetation shall be protected from disturbance during construction by fencing or other means. In the planning process the applicant shall also address the following:

(1) For projects that involve phased construction, existing land cover for those areas not under current development shall be addressed. If existing land cover does not consist of appropriate dense vegetation then these phases shall be planted temporarily to reduce erosion from idle land.

(2) In planning the erosion and sediment control strategy, preference shall be given to reducing erosion rather than controlling sediment. In order to accomplish this, the plan must carefully consider the construction sequence of the phases so that the amount of land area exposed to erosive forces is the minimum consistent with completing construction.

(d) Erosion and sediment control planning, standards and specifications shall be in accordance with the latest edition of the *Illinois Urban Manual*, (http://www.aiswcd.org/IUM/index.html) or similar document(s).

(d) The runoff from disturbed areas shall not leave the site without first passing through sediment control measures or devices. This requirement shall apply to all phases of construction and shall include an ongoing process of implementation of measures and maintenance of those measures during both the construction season and any construction shutdown periods.

(e) The condition of the construction site for winter shutdown shall be addressed early in the fall growing season so that slopes and other bare earth areas may be stabilized with temporary and/or permanent vegetative cover for proper erosion and sediment control. All open areas that are to remain idle throughout the winter shall receive temporary erosion control measures including temporary seeding, mulching and/or erosion control blanket prior to the end of the fall growing season. The areas to be worked beyond the end of the growing season must incorporate soil stabilization measures that do not rely on vegetative cover such as erosion control blanket and heavy mulching.

(f) In the hydraulic and hydrologic design of major erosion control measures (those whose tributary drainage area is greater than three acres) such as sediment basins and traps, diversions and the like, the design frequency shall be commensurate with the risk of the design event being exceeded. The following design frequencies shall be regarded as minimum design frequencies for the construction period:

(1) If development is estimated to be completed in less than six months, the storm event having a 50% chance (two-year event) of being exceeded in any year shall be used for design purposes.

(2) If development is estimated to be completed in more than six months but less than one year, the design frequency for major sediment basins shall be a rainfall event with a 20% (five-year event) chance of been exceeded in any one year.

(3) If development is estimated to take more than one year to complete, major sediment basins shall be designed for a rainfall event with a 10% (ten-year event) chance of been exceeded in any one year.

(4) All sediment basins shall be designed for a minimum residence time of ten hours for detained runoff and shall include a volume for sediment storage reflective of the clean out schedule for the basin. (SDI)

(g) The erosion and sediment control plan shall designate a series of practices which shall be implemented either at the direction of the applicant or the applicant's representative onsite or at the direction of the Administrator should an inspection of the site indicate a deficiency in soil and sediment erosion control measures.

(h) The area of disturbance onsite at any one time shall be limited to 20 acres. An additional 20 acres (a maximum of 40 acres of disturbance at any one time) may be stripped in order to balance cut and fill onsite. No additional area may be open without the permission of the Administrator until the previously disturbed areas have been temporarily or permanently stabilized.

(i) Erosion and sediment control plans shall be in accordance with Article 5 and shall include the following:

(1) Detailed construction phasing plan identifying erosion and sediment control measures to be in place for each phase shall be submitted.

(2) Erosion and sediment control measures to be installed initially prior to stripping existing vegetation or mass grading shall be indicated on the plans.

(3) Permanent stabilization measures shall be indicated on a separate plan.

(4) The expected two-year and ten-year runoff rates from all offsite areas draining into the site shall be identified on the plan.

(5) Methods for conveying flows through the site during construction shall be indicated. These methods must include the temporary and permanent stabilization measures to be used to reduce velocity and erosion from flow through the construction zone.

(6) A maintenance schedule of each measure used shall be indicated on the plan. As a minimum, all erosion and sediment control measures onsite shall be inspected weekly or after a one-half inch or greater rainfall event and any required repairs shall be made to keep these measures functional as designed.

(7) Special management areas and any required buffers shall be indicated on the erosion and sediment control plan.

(j) To the extent practicable, proposed ditches and waterways which are to convey offsite flows through the site shall be stabilized upon construction. Where new waterways are constructed they shall be stabilized to the extent practicable prior to their use to convey flood flows.

(k) Stockpiles of soil and other building materials (sand, limestone, etc.) shall not be located in special management areas or required buffers. If a stockpile is to remain in place for more than three days, erosion and sediment control shall be provided.

(l) Storm sewer inlets shall be protected with sediment trapping and/or filter control devices during construction.

(m) Water pumped or which is otherwise discharged from the site during construction dewatering shall be filtered and a means provided to reduce erosion.

(n) Graveled roads, access drives, parking areas of sufficient width and length and vehicle wash-down facilities if necessary, shall be provided to prevent soil from being tracked onto public or private roadways. Any soil tracked onto a public or private roadway shall be removed before the end of each workday or sooner as directed by the authority maintaining the roadway.

(o) Under no circumstances will construction waste be allowed to enter the City's storm system (inlets, curblines, drainageways, creeks, ditches etc.) nor can they be poured on the ground surface. An approved washout or waste receptacle must be available onsite.

(p) Temporary stream crossings of intermittent and perennial streams used only for and during construction shall be designed to convey a two-year flood (minimum), without overtopping unless a more frequent design event is allowed by the Administrator and will not obstruct the portion of the channel carrying the base flow. The entire crossing shall be designed to withstand hydrodynamic and erosive forces up to the base flood event without washing out. Ephemeral streams may be crossed at temporary at-grade crossings provided that the crossing point is stabilized with materials resistant to the erosive forces produced by runoff from the upstream drainage area and the design is approved by the Administrator. All temporary stream crossings shall be completely removed and the stream restored to its preconstruction condition upon completion of construction. Restoration shall incorporate appropriate native vegetation. (USFWS)

ARTICLE 4—PROTECTION OF SPECIAL MANAGEMENT AREAS

4-00. Reserved

4-01. Disclaimer

Nothing in this ordinance purports to alter or affect the regulatory program administered by IDNR-OWR. Anything in this ordinance to the contrary notwithstanding, if under the rules and regulations administered by IDNR-OWR a submittal need not be made to IDNR-OWR, or a review, approval or permit from IDNR-OWR need not be obtained, then nothing in this ordinance shall be construed to impose a requirement that such a submittal be made or that such a review, approval or permit be obtained from IDNR-OWR. Similarly, if IDNR-OWR has delegated its regulatory authority to another entity, then anything in this ordinance to the contrary notwithstanding, if required by such entity, such submittal shall be made or such review, approval or permit shall be obtained from such entity.

4-02. Statewide and regional permits

Development that qualifies for any of the self-issuing statewide or regional permits administered by IDNR-OWR (Statewide Permits Nos. 1 through 14 and Regional Permit No. 3), are similarly permitted under this Article. The developer need only submit to the Administrator such information and shall show the Administrator that the development qualifies for the particular statewide or regional permit in question under the regulations established by IDNR-OWR for such permit and no further submittal need be made under this Article. All other provisions of this ordinance applicable to such development, however, continue to apply.

4-03. Floodplain management

All development shall meet the requirements set forth in Table 4-03 and shall require a Floodplain Encroachment Permit issued by the Administrator.

Table 4-03 - Summary of requirements for development in floodplains

	404	405	406	407	408	409	410	411	412	413
Floodplains	All	405(e) 405(f)	All	--	--	All	--	--	--	--
Regulatory Floodplains	All	All	All	All	All	--	All (Note 1)	--	--	--
Regulatory floodways	All	All	All	All (Note 2)	All	--	All	All	--	--
Riverine Regulatory Floodplains	All	All	All	All	All	--	--	--	All	--
Bridge and Culvert Crossings	All	All	--	--	--	--	All (Note 3)	--	--	All

Note 1. Riverine, floodplains only
Note 2. For buildings meeting appropriate use criteria
Note 3. See exclusion in § 413(c)

4-04. Floodplain, regulatory floodplain, BFE and regulatory floodway locations

This article's protection standard is the base flood. The best available base flood data are listed below. The Administrator may require the use of a floodplain study not yet approved by IDNR-OWR and FEMA if its use would establish a higher BFE than the approved study. Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the

existing data with better data and submit it to the FEMA and IDNR/OWR for approval prior to any development of the site.

A. The base flood elevation for the floodplains of Ditch No. 3, Dry Creek, Keith Creek, Kilburn Creek, Kilbuck Creek, Kishwaukee River, Madigan Creek, Main Drainage Ditch, Manning Creek, McDonald Creek, Mud Creek, North Branch Otter Creek, North Kent Creek, North Kinnikinnick Creek, Otter Creek, Pecatonica River, Randalls Creek, Rock River, South Branch Dry Creek, South Branch Kishwaukee River, South Branch Otter Creek, South Ditch, South Kent Creek/Kent Creek, South Kinnikinnick Creek shall be as delineated on the 100-year flood profiles in the countywide Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated September 6, 2006.

B. The base flood elevation for each floodplain delineated as an “AH Zone” or AO Zone” shall be that elevation (or depth) delineated on the county wide Flood Insurance Rate Map of Winnebago County.

C. The base flood elevation for each of the remaining floodplains delineated as an “A Zone” on the countywide Flood Insurance Rate Map of Winnebago County shall be according to the best data available from federal, state or sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.

D. The base flood elevation for the floodplains of those parts of unincorporated Winnebago County that are within the extraterritorial jurisdiction of the City of Rockford or that may be annexed into the City of Rockford, shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated September 6, 2006.

4-05. General performance standards

The following general performance standards are applicable to all development in a regulatory floodplain. The standards of this section apply except when superseded by more stringent requirements in subsequent sections.

(a) No development shall be allowed in the regulatory floodplain that singularly or cumulatively creates any increase in flood stage or velocity offsite, or a damaging or potentially damaging increase in flood heights or velocity onsite or a threat to the public health, safety and welfare.

(b) For all projects involving a channel modification, fill, stream maintenance or a levee, the flood conveyance and storage capacity of the regulatory floodplain shall not be reduced.

(c) If the proposed development would result in a change in the regulatory floodplain or BFE the applicant shall obtain a LOMR from FEMA. No buildings may be built in the existing or proposed regulatory floodplain until the LOMR is obtained from FEMA unless the building meets all the building protection standards of Sec. 4-07. Proposed changes to the regulatory floodway delineation and the BFE must be submitted to IDNR/OWR for approval.

(d) If the development is located in the Rock River a permit must also be received from IDNR/OWR.

(e) Prior to the commencement of any construction, modification or removal of a dam the developer shall obtain an IDNR/OWR Dam Safety Permit or letter indicating a permit is not required.

(f) For public flood control projects, Secs. 4-03 through 4-13 will be deemed met if the applicant demonstrates to IDNR/OWR and the Administrator—

(1) by hydraulic and hydrologic modeling that the proposed project will not singularly or cumulatively result in increased flood heights outside the project site or that any increases will be contained in easements for all flood events up to and including the base flood event;

(2) that the project will be operated and maintained by a public entity;

(3) that the project will reduce flood damage to an existing building or structure.

(g) Fences within the floodplain shall not impede the base flood.

Nothing in this section precludes the design, engineering, construction or financing, in whole or in part, of a public flood control project by persons who are not public entities.

4-06. Public health protection standards

A. Public health standards must be met for all floodplain development. In addition to the requirements of Sections 6 and 7 of this ordinance the following standards apply:

1. No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of Section 7 of this ordinance.

2. Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.

3. Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

4. New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.

5. Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or three feet above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.

B. All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

4-07. Building protection standards

This section applies to all buildings located in the regulatory floodplain. However, most new and replacement buildings are not appropriate uses of the regulatory floodway.

A. In addition to the state permit and damage prevention requirements of this ordinance, all buildings located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

1. Construction or placement of a new building or alteration or addition to an existing building valued at more than one thousand dollars ($1,000) or seventy (70) square feet.

2. Substantial improvements or structural alterations made to an existing building that increase the floor area by more than twenty percent (20%) or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively during the life of the building. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.

3. Repairs made to a substantially damaged building. These repairs shall be figured cumulatively during the life of the building. If substantially damaged the entire structure must meet the flood protection standards of this section within 24 months of the date the damage occurred.

4. Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).

5. Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days per year.

6. Repetitive loss to an existing building as defined in Article 1.

B. <u>Residential or non-residential buildings</u> can meet the building protection requirements by one of the following methods:

1. The building may be constructed on permanent land fill in accordance with the following:

   a. The lowest floor (including basement) shall be at or above the flood protection elevation.
   b. The fill shall be placed in layers no greater than six inches before compaction and should extend at least ten (10) feet beyond the foundation before sloping below the flood protection elevation.
   c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure.
   d. The fill shall be composed of rock or soil and not incorporated debris or refuse material, and
   e. Shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary stormwater management techniques such as swales or basins shall be incorporated.

2. The building may be elevated on solid walls in accordance with the following:

a. The building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters.
b. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation.
c. If walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a licensed professional engineer or by having a minimum of one (1) permanent opening on each wall no more than one (1) foot above grade with a minimum of two (2) openings. The openings shall provide a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the base flood elevation, and
d. The foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris.
    i. All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage.
    ii. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
    iii. The area below the flood protection elevation shall be used solely for parking or building access and not later modified or occupied as habitable space, or
    iv. in lieu of the above criteria, the design methods to comply with these requirements may be certified by a licensed professional engineer or architect.

3. The building may be constructed with a <u>crawlspace</u> located below the flood protection elevation provided that the following conditions are met:

    a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
    b. Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than one (1) square inch per one (1) square foot of enclosed area. The openings shall be no more than one (1) foot above grade.
    c. The interior grade of the crawlspace below the flood protection elevation must not be more than two (2) feet below the lowest adjacent exterior grade.
    d. The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed four (4) feet at any point.
    e. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.
    f. Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and
    g. Utility systems within the crawlspace must be elevated above the flood protection elevation.

C. <u>Non-residential buildings</u> may be structurally dry floodproofed (in lieu of elevation) provided a licensed professional engineer or architect certifies that:

1. Below the flood protection elevation the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.

2. The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.

3. Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.

4. Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

D. Manufactured homes or travel trailers to be permanently installed on site shall be:

1. elevated to or above the flood protection elevation in accordance with Section 7(B), and

2. anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870.

E. Travel trailers and recreational vehicles on site for more than one hundred eighty (180) days per year shall meet the elevation requirements of section 7(D) unless the following conditions are met:

1. The vehicle must be either self-propelled or towable by a light duty truck.
2. The hitch must remain on the vehicle at all times.
3. The vehicle must not be attached to external structures such as decks and porches
4. The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
5. The vehicles largest horizontal projections must be no larger than four hundred (400) square feet.
6. The vehicle's wheels must remain on axles and inflated.
7. Air conditioning units must be attached to the frame so as to be safe for movement of the floodplain.
8. Propane tanks as well as electrical and sewage connections must be quick-disconnect.
9. The vehicle must be licensed and titled as a recreational vehicle or park model, and
10. must either:
    a. entirely be supported by jacks, or
    b. have a hitch jack permanently mounted, have the tires touching the ground and be supported by block in a manner that will allow the block to be easily removed by used of the hitch jack.

F. Garages, sheds or other minor accessory structures constructed ancillary to an existing residential use may be permitted provided the following conditions are met:

1. The garage of shed must be non-habitable.
2. The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use.
3. The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
4. The garage or shed must be on a single family lot and be accessory to an existing principle structure on the same lot.
5. Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.

6. All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation.
7. The garage or shed must have at least one permanent opening on each wall not more than one (1) foot above grade with one (1) square inch of opening for every one (1) square foot of floor area.
8. The garage or shed must be less than fifteen thousand dollars ($15,000) in market value or replacement cost whichever is greater or less than five hundred and seventy six (576) square feet (24'x24').
9. The structure shall be anchored to resist floatation and overturning.
10. All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
11. The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

4-08. Non-conforming structures

A non-conforming structure damaged by flood, fire, wind or other disaster may be restored unless the damage or cumulative permit value is equal to or greater than 50% of its fair market value before it was damaged, in which case it shall conform to Sec. 4-07.

4-09. Preventing Increased Flood Heights and Resulting Damages

No development in the floodplain shall create a threat to public health and safety.

A. Compensatory Storage.

1. Whenever any portion of a floodplain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood or 100-year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood or 100-year frequency flood elevation.

2. The excavation volume shall be at least equal to ***1.5 times*** the volume of storage lost due to the fill or structure

3. In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied.

4. All floodplain storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All floodplain storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation.

5. All such excavations shall be constructed to drain freely and openly to the watercourse.

Within any floodway identified on the countywide Flood Insurance Rate Map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

B. The only development in a floodway which will be allowed are Appropriate Uses, which will not cause a rise in the base flood elevation, and which will not create a damaging or potentially damaging increase in flood heights or velocity or be a threat to public health and safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or permanently impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this Ordinance. The approved Appropriate Uses are as follows:

1. Flood control structures, dikes, dams and other public works or private improvements relating to the control of drainage, flooding, erosion, or water quality or habitat for fish and wildlife.

2. Structures or facilities relating to the use of, or requiring access to, the water or shoreline, such as pumping and treatment facilities, and facilities and improvements related to recreational boating, commercial shipping and other functionally water dependent uses;

3. Storm and sanitary sewer relief outfalls;

4. Underground and overhead utilities;

5. Recreational facilities such as playing fields and trail systems, including any related fencing (at least 50 percent open when viewed from any one direction) built parallel to the direction of flood flows, and including open air pavilions and toilet facilities (4 stall maximum) that will not block flood flows nor reduce floodway storage;

6. Detached garages, storage sheds, or other non-habitable accessory structures that will not block flood flows nor reduce floodway storage;

7. Bridges, culverts, roadways, sidewalks, railways, runways and taxiways and any modification thereto;

8. Parking lots built at or below existing grade where either:

   a. The depth of flooding at the 100-year frequency flood event will not exceed 1.0 foot; or

   b. The applicant of a short-term recreational use facility parking lot formally agrees to restrict access during overbank flooding events and accepts liability for all damage caused by vehicular access during all overbank flooding events.

9. Floodproofing activities to protect previously existing lawful structures including the construction of water tight window wells, elevating structures, or construction of floodwalls around residential, commercial or industrial principal structures where the outside toe of the floodwall shall be no more than ten (10) feet away from the exterior wall of the existing structure, and, which are not considered substantial improvements to the structure.

10. The replacement, reconstruction, or repair of a damaged building, provided that the outside dimensions are not increased, and if the building was damaged to fifty (50%) percent or more of the market value before the damage occurred, the building will be protected from flooding to the flood protection elevation.

11. Modifications to an existing building that would not increase the enclosed floor area of the building below the 100-year frequency flood elevation, and which will not block flood flows including but not limited to, fireplaces, bay windows, decks, patios, and second story additions. If the building is improved to fifty (50%) percent or more of the market value before the modification occurred (i.e., a substantial improvement), the building will be protected from flooding to the flood protection elevation.

    Appropriate uses do not include the construction or placement of any new structures, fill, building additions, excavation or channel modifications done to accommodate otherwise non-appropriate

uses in the floodway, fencing (including landscaping or planting designed to act as a fence) and storage of materials except as specifically defined above as an Appropriate Use.

C. Compensatory storage in noted in Article 4.09A shall apply.

D. Except as provided in Article 4.09B of this ordinance, no development shall be allowed which, acting in combination with existing and anticipated development will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement*:

1. Bridge and culvert crossings of streams in rural areas meeting the conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2:
2. Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit Number 3:
3. Aerial utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 4;
4. Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit Number 5:
5. Minor, non-obstructive activities such as underground utility lines, light poles, sign posts, driveways, athletic fields, patios, playground equipment, minor storage buildings not exceeding 70 square feet and raising buildings on the same footprint which does not involve fill and any other activity meeting the conditions of IDNR/OWR Statewide Permit Number 6:
6. Outfall Structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit Number 7:
7. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 8:
8. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit Number 9:
9. Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit Number 10:
10. Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit Number 11:
11. Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR statewide Permit Number 12:
12. Temporary construction activities meeting the following conditions of IDNR/OWR statewide Permit Number 13:
13. Any Development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from State Floodway permit requirements.

E. Other development activities not listed in 10(B) may be permitted only if:

1. Permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required), or
2. Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

4-10. Requirements for wetland delineation

(a) Before any development in or near Waters of the U.S., or in or near isolated wetlands or farmed wetlands, a written report identifying and evaluating the boundaries, location, limits, area and quality of all onsite wetlands shall be submitted. The presence and limits of wetland areas shall be determined by a wetland delineation conducted in accordance with the 1987 Corps of Engineers Wetland Delineation Manual. Wetland delineations under this section shall be valid for three years. The presence of farmed wetlands shall be determined by NRCS.

(b) Before any development on agricultural land, in addition to the onsite delineation required under

the previous paragraph, a Certified Wetland Determination shall be obtained from NRCS.

(c) Delineations for permitting purposes shall be performed only during the period beginning on the last Monday of March and ending on the third Friday of November.

(d) The approximate location, extent and relative quality of wetlands within 50 feet of the site shall be identified and included in the written report. The location and extent of such offsite wetlands shall be determined by using the first of the following documents or procedures pertaining at the time of development:

(1) site specific delineation according to the 1987 Manual. If such delineation is not available, then –

(2) wetlands identified in watershed plans or studies. If such plans are not available, then –

(3) wetlands identified in interim watershed plans. If such plans are not available, then—

(4) wetlands identified on NRCS wetlands inventory maps.

4-11. Mitigation to be local

All wetland mitigation required under a COE 404 permit for wetland disturbances in the City shall be provided in the City.

4-12. Threatened and endangered species consultation

Prior to the issuance of a stormwater management permit or the Building Permit the applicant shall consult with IDNR and the United States Fish and Wildlife Service with respect to the presence of threatened or endangered species and shall obtain a "positive outcome" letter or other instrument of approval. If this consultation is not completed by the Developer then the City shall submit for consultation and the fee be charged back to the Developer. No permit will be issued until the "positive outcome" letter is received by the Department. The Department may require the development to be in accordance with one or more of the recommendations set forth by the IDNR and the United States Fish and Wildlife Service.

4-13. Wetland preservation during development

Preserved wetlands shall be protected during development.

4-14. Buffer requirements

The buffer requirements for wetland designated areas are to be in accordance with the COE permit and with the following requirements:

(a) Buffers shall be replanted or reseeded using appropriate predominately native deep-rooted vegetation, appropriately managed and maintained following disturbance.

(b) The buffer area for all lineal and non-lineal Waters of the U.S. except wetlands shall extend from the jurisdictional limits of the Waters of the U.S. ordinary high water mark. The buffer area for wetlands shall extend from the edge of the approved delineated wetland boundary. A site may contain buffer that originates from a Waters of the U.S. or wetland located on another property.

(c) Access through buffer areas shall be allowed when necessary for maintenance purposes. Unless otherwise dedicated for a public purpose, buffer areas shall remain private property and are not generally accessible to the public.

(d) Undetained stormwater which has not passed through a site runoff storage facility shall discharge through an area or structure meeting the definition of best management practices or buffer before entering a jurisdictional Waters of the U.S. or wetland.

(e) All buffer areas once established shall be maintained free from development, except as follows:

(1) A buffer area may be used for passive recreation (e.g. birdwatching, walking, jogging, bicycling, horseback riding and picnicking) and it may contain pedestrian, bicycle or equestrian trails, provided that the created path is no wider than ten feet. If the path leads to a wetland, it must be a winding path to help prevent erosion.

(2) Non-habitable structures (i.e., tool shed) and impervious surfaces may occupy a maximum of 15% of the portion of the required buffer that extends onto or is part of an individual property.

(3) Utility maintenance and maintenance of drainage facilities and drainage easements shall be allowed provided the maintenance activity meets all other federal, state and local regulations.

(4) Anchoring and placement of boat docks and piers shall be allowed provided the structure meets all other federal, state and local regulations.

4-15. Carrying Capacity and Notification

For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.

In addition, the City of Rockford shall notify adjacent communities in writing thirty (30) days prior to the issuance of a permit for the alteration or relocation of the watercourse.

4-16. Disclaimer of Liability.

The degree of protection required by this Article is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Article does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Article does not create liability on the part of the City of Rockford or any officer or employee thereof for any flood damage that results from proper reliance on this ordinance or any administrative decision made lawfully thereunder.

ARTICLE 5—REQUIRED SUBMITTALS FOR STORMWATER MANAGEMENT PERMITS

5-00. General requirements

(a) A stormwater management permit is required if—

(1) the development is located in the regulatory floodplain;

(2) a substantial improvement is to be located in the regulatory floodplain;

(3) there is any regulatory floodplain within the site; or

(4) the development disturbs more than 5,000 square feet of ground or 250 cubic yards of soil, unless the development consists solely of—

(A) the installation, renovation or replacement of a septic system, potable water service line or other utility serving an existing structure;

(B) the maintenance, repair or at grade replacement of existing lawn areas not otherwise requiring a stormwater permit under this ordinance;

(C) the maintenance of an existing stormwater facility, not requiring other state or federal permits or approvals.

(b) All appropriate stormwater management related approvals and permits, including, without limitation, an IDNR-OWR Floodway/Floodplain Construction Permit, a COE 404 Permit and an IDNR-OWR Dam Safety Permit, if required, shall be obtained from all federal, state and regional authorities prior to the issuance of a stormwater management permit.

(c) All permit fees shall be paid at the time of application. Permit fees shall be established by separate ordinance. Fees may be established based upon all costs incurred by the permitting authority in the admin- istration of the permit, including, without limitation, the costs of review and inspections both during and after construction within the period for the establishment of permanent cover.

(d) (1) The design of stormwater facilities, calculations for the determination of the regulatory floodplain and calculations of the impacts of development shall meet the standards of this ordinance and shall be prepared, signed, and sealed by a professional engineer. The signature and seal of such professional engineer shall stand as his or her opinion that the submittals which accompany the permit application meet the requirements of this ordinance.

(2) (A) For projects which include earth embankments which are subjected to a differential water pressure the submittal shall include evidence that the embankment design and construction specifications are adequate for the design conditions. This review shall include consideration of the existing foundation soils for the embankment, the materials from which the embankment is to be constructed, compaction requirements for the embankment and protection of the embankment from failure due to overtopping. Specifications for the construction and materials for all such embankments shall be included. When directed by the Administrator, or when the impounded water pressure differential exceeds three feet or when appropriate considering the volume impounded and water surface elevation differential to which the embankment is subjected, these calculations may be required to be reviewed, signed and sealed by a qualified geotechnical or registered structural engineer.

(B) For structures (not including earth embankments) that are subject to a differential water pressure greater than three feet the submittal shall, at a minimum, be reviewed by a professional engineer. Such reviews shall include stability of the structure under design conditions considering the protection of downstream life and property in the event of a failure. When directed by the Administrator the calculations submitted for such structures shall be reviewed, signed and sealed by a registered structural engineer.

(3) A topographical map of the site, record drawings and other required drawings shall be prepared, signed, and sealed by a professional land surveyor or professional engineer and referenced to the National Geodetic Vertical Datum, 1929 adjustment, any FEMA benchmarks and, if the site is more than 20 acres, to the Winnebago County Survey Control Network. Plats for new subdivisions more than 20 acres in size shall be submitted to the Director in one of the electronic formats designated by the City.

5-01. Duration and revision of permits

(a) Permits expire on December 31 of the third year following the date of their issuance.

(b) If the permitted activity has begun but is not complete by the expiration date of the permit, the permittee may submit a written request for an extension to the Administrator with a copy to the Director. Upon receipt of such request, the Administrator may extend the expiration date for up to three years for permitted activities outside special management areas. Expiration dates for permitted activities within special management areas may also be extended for up to three years provided the activity is in compliance with the then current requirements of this ordinance. A permittee may apply for any number of extensions.

(c) If the permittee revises the approved plans after issuance of the permit, the permittee shall submit the revised plans to the Administrator with a copy to the Director, along with a written request for approval. If the Administrator determines that the revised plans are in compliance with the then current requirements of this ordinance, an amended permit may be issued.

5-02. Required submittals

(a) Refer to Table 502 for the submittals required to accompany the permit application based upon the type of development. The Administrator may, in his or her discretion, modify the submittal requirements on a case by case basis considering the size, complexity and likelihood that a development will affect the discharge of stormwater. Such modifications shall be requested and approved in writing. The Administrator's response shall note the relevant findings and be specific as to what submittal requirements are changed.

The Director shall be copied on all related correspondence. The Administrator may not modify submittal requirements for any aspect of the development requiring state or federal permits or approvals, nor for any application in which any variance is requested. The Director shall receive a copy of any wet- land submittal under 507 whether or not the County is the permitting authority.

Table 5-02 - Permit submittal requirements

Type of Development	Required Submittals (refer to sections noted for specific requirements) Section No./Description								
	503	504	505	506	507	508	509	510	Art 15
	Application and Project Overview	Plan Set Submittal	Stormwater Submittal	Floodplain Submittal	Wetland Submittal	Performance Security	Maintenance Schedule and Funding	Record Drawings	Wetland Impacts & Mitigation
All requiring a permit	X	X				X	X	X	
All on sites with floodplain	X	X		X		X	X	X	
All on sites with or adjacent to waters of the United States	X	X			X	X	X	X	
All applications for variances	X	X	X	If on site	If on site	X	X	X	
All requiring site runoff storage	X	X	X			X	X	X	
All on sites having a wetland impact					X				X

5-03. Application and project overview

(a) The applicant shall at a minimum, provide the following information on forms or in a format approved by the Administrator:

(1) the names and legal addresses of all owners of the site;

(2) the names and legal addresses of the developer or developers responsible for completing the development according to the plans submitted, the terms and conditions of the permit and the requirements of this ordinance;

(3) the common address, legal description and parcel identification number (PIN) of all parcels which comprise the site;

(4) the name of the project, area of the site in acres and type of development;

(5) a general narrative description of the development, existing and proposed conditions and project planning principles considered, including best management practices used;

(6) a statement of opinion by a qualified person as to the presence of special management areas on the site;

(7) copies of all other permits or permit applications as required;

(8) a subsurface drainage investigation report; and

(9) an engineer's estimate of probable construction cost of the stormwater facilities and the installation and maintenance of soil erosion and sediment control measures.

(b) The application shall be signed by all owners and developers identified in (a) (1) and (2) above and shall contain their attestation that they have read and understand the provisions of this ordinance and agree to bind themselves to the permitting authority to comply therewith. If at any time prior to completion and final inspection and approval of the development the identity of the persons

required to be disclosed in (a)(1) and (2) above changes, an amended application containing the current information shall be filed and the permit shall be amended accordingly.

(c) Upon receipt of an application for a development permit, the Administrator_shall compare the elevation of the site to the base flood elevation. Any development located on land that is shown by survey elevation to be below the current base flood elevation is subject to the provisions of this ordinance. In addition, any development located on land shown to be below the base flood elevation and hydraulically connected to a flood source, but not identified as floodplain on the current Flood Insurance Rate Map, is subject to the provisions of this ordinance. Any development located on land that can be shown by survey data to be higher than the current base flood elevation and which has not been filled after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the provisions of this ordinance.

The Administrator shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

The Administrator shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Administrator ***shall*** not issue a permit unless all other federal, state, and local permits have been obtained.

5-04. Plan set submittal

All applicants for a stormwater permit shall provide the following basic plan exhibits: Site Topographical Map, General Plan View Drawing, Sediment/Erosion Control Plan, SWPPP (if applicable) and a Vicinity Topographical Map. Each exhibit may be on more than one drawing for clarity. The specific information to be included on each exhibit shall be as noted below.

(a) Site Topographical Map:

(1) map scales as 1 inch = 100 feet (or less) and accurate to +/- 0.5 feet;

(2) existing and proposed contours onsite (one foot maximum contour interval) and within 100 feet of the site;

(3) existing and proposed drainage patterns and watershed boundaries;

(4) the location and dimensions of all buildings and additions to buildings;

(5) delineation of pre-development regulatory floodplain and floodway limits;

(6) delineation of post-development regulatory floodplain and floodway limits;

(7) location of cross-sections and any other hydrologic or hydraulic computer modeled features;

(8) location of all onsite drain tiles;

(9) boundaries of all wetlands, lakes, ponds, etc. with normal water elevation noted; (show areas of wetlands to be impacted either under permit or otherwise if a permit is not required);

(10) nearest base flood elevations;

(11) the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Article 4 of this ordinance;

(12) FEMA and reference benchmarks used; and

(13) all contours used in the calculation of depressional storage highlighted.

(b) General Plan View Drawing:

(1) drawing at the same scale as the Site Topographical Map;

(2) existing major and minor stormwater systems;

(3) proposed major and minor stormwater systems;

(4) design details for stormwater facilities (i.e. structure and outlet work detail drawings, etc.);

(5) scheduled maintenance program for permanent stormwater facilities including BMP;

(6) planned maintenance tasks and schedule;

(7) identification of persons responsible for maintenance;

(8) permanent public access maintenance easements granted or dedicated to, and accepted by, a government entity;

(9) proposed regulatory floodplain and floodway location (with the base flood and flood protection elevations noted);

(10) existing Waters of the U.S. including wetlands, a certified wetland determination obtained from NRCS and required buffers;

(11) areas of directly connected impervious areas and any off-setting landscaped areas as defined in Sec. 2-03(g) indicated;

(12) all plan areas at elevations below the 100-year high water elevation of site runoff storage facilities highlighted; and

(13) where a 500-year regulatory flood profile is available, the plan limit of the 500 year floodplain.

(c) Sediment and Erosion Control Plan or SWPPP in accordance with Article 3:

(1) drawings at the same scale as the Site Topographical Map;

(2) sediment and erosion control installation measures and schedule;

(3) existing and proposed roadways, structures, parking lots, driveways, sidewalks and other impervious surfaces;

(4) limits of clearing and grading;

(5) special management areas located;

(6) proposed buffer locations, existing soil types, vegetation and land cover conditions;

(7) list of maintenance tasks and schedule for sediment and erosion control measures;

(8) locations where Stormwater discharges from the site; and

(9) the name, address and phone number at which the person responsible for erosion and sediment control may be reached on a 24-hour basis.

(d) Vicinity Topographical Map.

(1) vicinity topographical map identifying all offsite areas draining to the development and downstream to the receiving intermittent or perennial stream; (a two-foot contour map is preferred at a scale readable by the reviewer but a USGS Quadrangle map is acceptable);

(2) watershed boundaries for areas draining through or from the development;

(3) soil types related to hydrologic soils group, vegetation and land cover affecting runoff upstream of the site for any area draining through the site;

(4) location of site within the major watershed(s); and

(5) shows the overland flow path from the downstream end of the development to the receiving intermittent or perennial stream.

5-05. Stormwater submittal

The stormwater submittal shall include a narrative discussion and calculations to support that the proposed development complies with the technical requirements of this ordinance. The submittal shall consist at a minimum of the following material:

(a) a narrative description of the existing and proposed site drainage patterns and conditions; include description of offsite conditions which help to identify stormwater issues considered in the design;

(b) a schedule for implementation of the site stormwater plan;

(c) onsite and offsite runoff calculations which address the following:

(1) documentation of the procedures and assumptions used to calculate hydrologic and hydraulic conditions for sizing major and minor systems;

(2) cross-section data for open channels;

(3) hydraulic grade line and water surface elevations under design flow conditions; and

(4) hydraulic grade line and water surface elevations under base flood flow conditions; and

(d) site runoff storage calculations, which address the following:

(1) calculation of hydraulically connected impervious area and corresponding retention volume;

(2) documentation of the procedures and assumptions used to calculate hydrologic and hydraulic conditions for determining the allowable release rate;

(3) documentation of the procedures and assumptions used to calculate onsite depressional storage;

(4) documentation of the procedures and assumptions used to calculated hydrologic and hydraulic conditions for determining the storage volume;

(5) elevation-area-storage data and calculations for site runoff storage; and

(6) elevation-discharge data and calculations specifically related to the outlet control structure depicted in the plan exhibits.

5-06. Floodplain submittal

The applicant shall obtain approval from IDNR-OWR and FEMA when required for all new base flood and floodway determinations or as required in Sec. 4-04. Documentation supporting a finding by a professional engineer or certified floodplain manager that the proposed development is in compliance with Sec. 4-03 shall be submitted with the application. At a minimum, the following material shall be submitted for approval with the application:

(a) regulatory floodplain boundary determination:

(1) provide source of flood profile information; and

(2) provide all hydrologic and hydraulic study information for site-specific floodplain studies, unnumbered Zone A area elevation determinations, and floodplain map revisions;

(b) floodway hydrologic and hydraulic analyses for the following conditions:

(1) existing conditions (land use and stream systems);

(2) proposed conditions (land use and stream systems);

(3) tabular summary of 100-year flood elevations and discharges for existing and proposed conditions;

(4) calculations used for model development; and

(5) hydraulic/hydrologic computer model input/output;

(c) floodplain fill and compensatory storage calculations for below and above ten-year flood elevation up to the base flood elevation:

(1) tabular summary for below and above ten-year flood elevation of fill, compensatory storage and compensatory storage ratios provided in proposed plan; and

(2) cross-sections used for the above calculations; and

(d) floodproofing measures:

(1) narrative discussion of floodproofing measures including material specifications, calculations, design details and operation summary; and

(2) flood easements when required by this ordinance.

(e) statewide and regional self-issuing permits (Statewide Permits Nos. 1 through 14 and Regional Permit No. 3):

(1) such information as shall show that the development qualifies for particular permit in question under the regulations established therefor by IDNR-OWR.

5-07. Wetland submittal

(a) The applicant shall obtain a permit for all federally regulated activities involving Waters of the US from the appropriate federal authorities. The applicant shall indicate on the plan set the location of any onsite wetland mitigation required by a COE permit and, in narrative form, the location of all onsite mitigation.

(b) A wetland submittal in accordance with the detailed requirements of Secs. 4-03, 4-11 and 4-12 shall be required. In general, the submittal will consist of the following material:

(1) wetland delineation report (COE format);

(2) Wetland Delineation Plan View Drawing:

(A) all existing and proposed impacted or undisturbed onsite wetlands;

(B) location of buffers;

(C) planting plan for buffers; and

(D) identify all required wetland management activities.

(3) For all stream modifications, the following shall be submitted:

(A) a plan and profile of the existing and proposed channel; and

(B) supporting calculations for channel width, depth, sinuosity, riffle locations and the like.

5-08. Performance security

Performance security in accordance with Article 10 shall be required prior to permit issuance.

5-09. Maintenance schedule and funding

A completed maintenance schedule for the stormwater management facilities and special management areas in accordance with Article 6 shall be submitted along with identification of the persons responsible for maintenance and funding and back-up funding sources for maintenance in accordance with Sec. 6-05.

5-10. Record drawings

The permittee is required to submit record drawings of all permitted stormwater facilities. The record drawings shall be signed and sealed by a professional engineer or professional land surveyor who shall state that the project as constructed is substantially in conformance with the development as permitted.

5-11. Terms of permit/denial—appeal

(a) Within 10 days after being served with the permit or notice that the permit has been denied, the applicant may appeal the terms or denial of the permit to the oversight committee. The appeal shall be made by filing a notice thereof with the oversight committee specifying the specific provisions appealed from and the grounds therefor. The oversight committee shall conduct a hearing on the appeal not more than 60 days after the filing of the notice of appeal. The hearing shall be *de novo*. Notice of the hearing shall be served upon the applicant, the Administrator, the Director and upon all communities within the same watershed as the development to which the appeal relates. The hearing may be continued from time to time. The oversight committee may adopt rules for the taking of evidence and conduct of such hearings.

(b) Within 30 days of the conclusion of the hearing, the oversight committee shall decide whether to affirm or reverse, in whole or in part, the terms or denial of the permit. The decision of the oversight committee shall be in writing and shall include the specific findings and conclusions supporting its determination. A copy of the decision and order shall be served upon all parties entitled to notice in accordance with Sec. 9-04.

(c) Within 10 days of being served with the order of the oversight committee, the applicant may (and if the denial of the permit or any of the terms thereof have been reversed, in whole or in part, by the oversight committee, the Administrator shall), further appeal to the decision-making authority. The decision-making authority shall decide the appeal upon the record before the oversight committee. The decision-making authority shall decide the appeal within 45 days of its receipt thereof. The decision-making authority shall affirm the order of the oversight committee if it is supported by substantial evidence in the record. A copy of the decision and order of the decision-making authority shall be served upon all parties entitled to notice in accordance with Sec. 9-04.

(d) Within 10 days of being served with the order of the decision-making authority, the applicant may (and if the effect of the decision-making authority's decision is that the denial of the permit or any of the terms thereof have been reversed, in whole or in part, the Administrator shall), further appeal to the Committee. The Committee shall decide the appeal upon the record below. The Committee shall decide the appeal within 45 days of its receipt thereof. The Committee shall affirm the order of the decision-making authority if it is supported by substantial evidence in the record. A copy of the decision and order of the Committee shall be served upon all parties entitled to notice in accordance with Sec. 9-04.

(e) From a final order of the Committee, the applicant may appeal to the courts under the Illinois Administrative Review Law.

ARTICLE 6—LONG TERM MAINTENANCE

6-00. Long-term maintenance

The owner shall maintain that portion of a stormwater drainage system, including any special management areas, located upon his land. With the approval of the Administrator and/or the City Council the stormwater drainage system and special management areas, or specified portions thereof, may be—

(a) dedicated or otherwise transferred to and accepted by the permitting authority or other public entity; or
(b) conveyed or otherwise transferred to and accepted by a homeowner's association, or similar entity, the members of which are to be the owners of all of the lots or parcels comprising the development; or
(c) conveyed to one or more persons or in one or more undivided interests to one or more persons.

Except for those portions of the stormwater drainage system and special management areas to be dedicated or otherwise transferred to the permitting authority or other public entity, included in the application for a stormwater permit shall be a plan for the long term management, operation and maintenance of the stormwater drainage system and special management areas and a description of the sources of funding therefor. Amendments to the plan must be approved by the Administrator.

6-01. Transfer to permitting authority or other public entity

If any portion of the stormwater drainage system or special management areas are to be dedicated or otherwise transferred to the permitting authority or other public entity under Sec. 6-00(a), appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of such entity on the final plat.

6-02. Transfer to homeowner's or similar association

If any portion of the stormwater drainage system or special management areas are to be conveyed or otherwise transferred to a homeowner's or similar association under Sec. 6-00(b) then—

(a) appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of such association and the permitting authority on the final plat;

(b) the final plat shall contain a legend imposing the maintenance obligations of this section upon the association and its successors in interest as a covenant running with the land and incorporating by reference the plan of long term maintenance set forth in the application for a stormwater management permit, with approved amendments;

(c) the final plat shall contain a legend reserving the right of the permitting authority to enter upon the land to perform the maintenance required in this section if the association does not do so and to place a lien against the land for the cost thereof;

(d) the association shall be duly incorporated and a copy of the Certificate of Incorporation, duly recorded with the County Recorder of Deeds, and bylaws, and any amendment to either of them, shall be delivered to the Administrator;

(e) the bylaws of the association shall, at a minimum, contain—

(1) a provision acknowledging and accepting the association's obligation to maintain those portions of the stormwater drainage system and special management areas conveyed or otherwise transferred to it under this ordinance;

(2) a mechanism for imposing an assessment upon the owners of all of the lots or parcels comprising the development sufficient, at a minimum, to provide for the maintenance of those portions of the stormwater drainage system and special management areas conveyed or otherwise transferred to it under this ordinance; and the payment of all taxes levied thereon;

(3) a provision adopting the plan of long term maintenance set forth in the application for a storm-water management permit, with approved amendments;

(4) a provision identifying the officer of the association responsible for carrying out the obligations imposed upon the association under this ordinance;

(5) a provision requiring the consent of the permitting authority to any amendment of the bylaws changing any of the provisions of the bylaws required by this ordinance; and

(6) a provision requiring the consent of the permitting authority to the dissolution of the association; and

(f) any conveyance or other instrument of transfer delivered under Sec. 6-00(b) shall include a covenant affirmatively imposing upon the association the obligations set forth in this section and the association's affirmative acceptance thereof.

6-03. Conveyance to one or more persons

If any portion of the stormwater drainage system or special management areas are to be conveyed to one or more persons under Sec. 6-00(c), then—

(a) appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of the permitting authority on the final plat;

(b) the final plat shall contain a legend imposing the maintenance obligations of this section upon the grantee and his successors in interest as a covenant running with the land and incorporating by reference the plan of long term maintenance set forth in the application for a stormwater management permit, with approved amendments;

(c) the final plat shall contain a legend reserving the right of the permitting authority to enter upon the land to perform the maintenance required in this section if the owner does not do so and to place a lien against the land for the cost thereof; and

(d) any conveyance delivered under Sec. 6-00(c), and any subsequent conveyance, shall include a covenant affirmatively imposing upon the grantee the obligations, restrictions and provisions set forth in this section and the grantee's affirmative acceptance thereof.

6-04. Incorporation of maintenance obligations in stormwater management permit

The provisions of this Article shall be incorporated by reference in the stormwater management permit and the applicant's acceptance of the permit shall be deemed to be the applicant's acceptance and

assumption of the obligations imposed under this Article. At the option of the Administrator, the stormwater management permit may be recorded.

6-05. Funding of long-term maintenance of stormwater facilities

Unless (a) a public entity has accepted primary maintenance responsibility for the stormwater drainage system and special management areas to be constructed, installed or preserved under the permit, or (b) a public entity has agreed and so states in the permit, to accept maintenance responsibility in the event the person designated by the applicant as having primary maintenance responsibility fails to adequately carry out its duties the Administrator will require, as a condition of approving of any application for a stormwater management permit, the establishment of a special service area pursuant to 35 ILCS 200/27-5, *et seq*, either as the primary means of providing for the long term maintenance of the facilities, or as a backup vehicle in the event the person designated by the applicant as having primary maintenance responsibility fails to adequately carry out its duties. If the establishment of a special service area is required, the Administrator shall make a good faith estimate of the tax rate required to produce a tax to be levied upon all taxable property within the area, sufficient for the long term maintenance of the facilities and submit the same to the permitting authority which shall incorporate such rate into its enactment of the ordinances necessary for the establishment of the area. The ordinances to be enacted by the permitting authority shall be substantially in the form set forth in Appendix A. On or before August 1 of each year thereafter, the Administrator shall submit to the permitting authority a good faith estimate of the amount of tax required to be levied upon all taxable property within the area for the next fiscal year for the continued maintenance of the stormwater drainage system.

6-06. Inspections of Stormwater Drainage Systems and Special Management Areas

The Administrator or designee shall have the authority to enter the property to perform periodic inspections of stormwater drainage systems and special management areas for compliance with maintenance requirements as noted on the final plats, drainage easements and/or post construction management plans and stormwater management permits.

ARTICLE 7—GENERAL PROVISIONS

7-00. Scope of Regulation

This ordinance applies to all development within the City. Any person undertaking a development shall obtain a stormwater management permit from the permitting authority within whose boundaries the development is located. Any person undertaking a development having a wetland impact shall obtain a permit from ACOE. Any developer undertaking development in the regulatory floodway, or regulatory floodplain where no regulatory floodway has been designated, shall obtain a permit from IDNR-OWR if required prior to issuance of a stormwater management permit.

7-01. Exemptions

(a) This ordinance does not apply to—

(1) development which has been substantially completed before March 1, 2015;

(2) development which has been determined to be exempt by the City; and

(3) wetland impacts occurring before the effective date.

(b) Nonconforming structures shall not be replaced or enlarged in any manner unless such replacement or enlargement conforms to the requirements of this ordinance.

7-02. Interpretation

(a) This ordinance shall be liberally construed to protect the health, welfare, safety, and the environment of the residents of the City and to effectuate the purposes of this ordinance and the enabling legislation.

(b) Nothing in this ordinance shall be deemed to consent to, license, permit to locate, construct, or maintain any structure, site, facility or operation, or to carry on any trade, industry, occupation, or activity.

(c) When provisions of this ordinance differ from any other applicable law, statute, ordinance, rule or regulation, the more stringent provision shall apply.

(d) The provisions of this ordinance are cumulative of all other laws, statutes, ordinances, rules and regulations which relate to the subject matter hereof and, except as otherwise expressly provided herein, nothing in this ordinance shall be construed as a limitation upon the application or enforcement of any such law, statute, ordinance, rule or regulation. To the greatest extent possible, the provisions of this ordinance shall be construed to be consistent with the provisions of such other laws, statutes, ordinances, rules or regulations, and with each other, to the end that all such provisions may be given their fullest application.

7-03. Warning and disclaimer of liability

(a) The degree of flood protection provided by this ordinance is considered reasonable for regulatory purposes and is based upon engineering experience and scientific methods of study. Increased flooding may result from causes beyond the control of any governmental authority. This ordinance does not, therefore, guarantee that areas outside the floodplain or permitted land uses within the floodplain will be free from flooding and associated damages.

(b) Nothing in this ordinance shall be construed or applied in any manner to create liability on the part of or a cause of action against the City or other governmental authority, or any elected official, or any officer, agent, or employee of any of the foregoing for any flood damage resulting from reliance on the provisions of this ordinance.

7-04. Severability

(a) The provisions of this ordinance shall be severable in accordance with the following rules:

(1) If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance.

(2) If any court of competent jurisdiction shall adjudge to be invalid the application of any provision of this ordinance to a particular parcel of land, a particular structure, or a particular development, such judgment shall not affect the application of said provision to any other land, structure or development.

7-05. Repealer

This ordinance repeals the original ordinance or resolution which was adopted to meet the National Flood Insurance Program regulations, but is not intended to replace any ordinance or resolution passed in order to establish initial eligibility for the National Flood Insurance Program.

7-06. Amendments

No amendment to this ordinance may be passed without a public hearing first being held before the City Council upon notice published as provided in Sec. 9-05.

7-10. Effective date

After its passage, approval and publication according to law, this ordinance shall take effect on March 1, 2015.

ARTICLE 8—VARIANCES

8-00. Purpose

In order to provide a narrowly circumscribed means by which relief may be granted when strict compliance with the requirements of this ordinance is impossible or impracticable, variances from the specific provisions of this ordinance may be granted according to the standards set forth in this Article.

8-01. Application for variance

An application for a variance, signed by at least one of the persons identified in Sec. 5-03(a)(1) and (2) with respect to the development to which it relates, shall be filed with the Administrator. No application for a variance will be accepted for filing unless it relates to a previously or contemporaneously filed application for a stormwater management permit. Applications for a variance shall be filed in such number of duplicate copies as the Administrator may designate by administrative order. No action will be taken on an application for a variance unless it and the corresponding application for a stormwater management permit to which it relates are complete as determined by the Administrator. The Administrator shall send a copy of the complete application to the Director and to all other communities within the same watershed. Applications for a variance need not be made upon any specific form, but shall contain the information set forth in **Table 8-01**

Table 8-01 - Application for variance

An application for variance shall set forth—

1. the common address(es) and legal description of the site;
2. the persons identified in § 503(a)(1) and (2);
3. the names and addresses of all consultants retained in connection with the application for a variance;
4. the names and addresses of all owners of record of land within 250 feet of the site;
5. the specific feature or features of the development that require a variance;
6. the specific provisions of this ordinance from which a variance is sought and the precise extent of the variance therefrom;
7. a statement of the characteristics of the development that prevent compliance with the provisions of this ordinance;
8. a statement that the variance requested is the minimum variance necessary to permit the development;
9. a statement as to how the variance requested satisfies the standards set forth in Section 904 of this ordinance.

8-02. Application fee

With the filing of the application for a variance, the applicant shall pay a fee to be prescribed by separate ordinance.

8-03. Public hearing

When the application is complete, the Administrator will so notify the applicant and will schedule a public hearing on the application before the Stormwater Board of Appeals Committee. Notice of the hearing shall be published as provided in Sec. 9-05 and served as provided in Sec.9-04 upon the applicant, the Director, all owners of record of land within 250 feet of the site as disclosed in the application, and upon each community within the same watershed as the development. The notices given under the section shall set forth the common name, address and legal description of the development and a brief description of the variance is requested.

8-04. Granting of variances

Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the Stormwater Board of Appeals for a variance. The Stormwater Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Code and Regulation Committee. The recommendation of the Code and Regulation Committee shall be submitted to City Council and may attach such conditions to granting of a variance as it deems necessary to further the intent of this ordinance.

A. The Stormwater Board of Appeals committee shall not recommend nor shall the City Council grant a variance from the provisions of this ordinance unless the variance is consistent with the purposes of this ordinance and meets the following standards based upon clear and convincing evidence submitted at the hearing:

(1) The variance will not increase the probability of flood damage or create an additional threat to the public health, safety and welfare.

(2) The applicant's circumstances are unique and do not establish a pattern inconsistent nor violates the Federal Regulations 44CFR 59-60, the National Flood Insurance Policy and the Clean Water Act

(3) The variance is the minimum required considering each of the following statements of policy underlying this ordinance and there are no means other than the requested variance by which the demonstrated hardship can be avoided or remedied to a degree sufficient to permit the reasonable continuation of the development:

(a) Site runoff storage of stormwater shall also contribute to the improvement of the quality of stormwater runoff.

(b) The volume of site runoff storage provided in open-air vegetated facilities is maximized consistent with other site constraints on land use, including zoning requirements essential for the proposed development.

(c) Conveyance of stormwater shall not disproportionately absorb the design capacity of existing offsite conveyance facilities for any storm event from the two-year to the 100-year flood frequency.

(d) High quality natural areas shall be preserved on the site, including without limitation, stands of native trees, existing wetlands, natural floodplain storage or other valuable environmental and biological resources.

(4) The variance is not requested solely for the purpose of increasing the density of the development nor impervious areas on the site.

(5) The variance is not requested solely as a result of economic hardship.

(6) If applicable, the variance is required due to unique, natural topographical features of the site and/or the development cannot be located outside of the floodplain.

(7) The applicant's circumstances are not self-imposed.

(8) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.

(9) All other state and federal permits have been obtained.

B. The Administrator of behalf of the Stormwater Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protections standards of Article 4 that would lessen the degree of protection to a building will:

(1) Result in increased premium rates for flood insurance up to twenty-five dollars ($25) per one hundred dollars ($100) of insurance coverage;

(2) increase the risk to life and property, and

(3) require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

C. Historic Structures

(1) Variances to the building protection requirements of Article 4 of this ordinance which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "Historic Structures", may be granted using criteria more permissive than the requirements of Article 4 of this ordinance subject to the conditions that:

a. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
b. The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

D. Agriculture

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in this ordinance.
In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

(1) All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area

exists for the agricultural structure. Residential structures or animal confinement facilities, such as farm houses, cannot be considered agricultural structures.

(2) Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

(3) For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4 of this ordinance.

(4) The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Article 4 of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

(5) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4 of this ordinance.

(6) The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article 4 this ordinance.

(7) The agricultural structures must comply with the floodplain management floodway provisions of Article 4 of this ordinance. No variances may be issued for agricultural structures within any designated floodway.

(8) Wet-floodproofing construction techniques must be reviewed and approved by the floodplain administrator and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction

8-05. Recommendations

(a) The Administrator shall review the application for a variance and present his or her written recommendations to the Stormwater Board of Appeals committee at the public hearing.

8-06. Decision

The Stormwater Board of Appeals Committee shall grant the variance, grant the variance with modifications or conditions, or deny the variance in writing within 45 days after final conclusion of the public hearing. The failure of the Appeals Board to act within 45 days, absent the agreement of the applicant to any extension of the time, shall be deemed to be a decision approving the variance.

8-07. Conditions

(a) A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief, but not to the relief requested.

(b) In granting a variance, the decision-making authority may impose such specific conditions and limitations on the applicant concerning any matter relating to the purposes and objectives of this ordinance as may be necessary or appropriate.

(c) Whenever any variance is granted subject to any condition to be met by the applicant, upon meeting such condition, the applicant shall file evidence to that effect with the Administrator.

ARTICLE 9—ADMINISTRATION

9-00. Responsibility for administration

(a) The Administrator shall oversee the enforcement of this ordinance.

(b) The Director and Administrator shall administer this ordinance. In performing their duties, the Director and the Administrator may delegate routine responsibilities to any named designee.

(c) The City shall remain responsible for its standing in the National Flood Insurance Program, including —

(1) the maintenance of all records and the submission of all reports required for eligibility in the program, including elevation certificates, floodproofing certificates, and lowest floor elevations; and

(2) the notification of the Director, FEMA, IDNR-OWR, COE, NRCS, the Soil and Water Conservation District, the United States Fish and Wildlife Service, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency of any proposed amendment to this ordinance.

9-01. Duties of Director

The Director shall —

(a) supervise the enforcement of this ordinance;

(b) supervise the development, revision and implementation of the Plan for approval by the Code and Regulation Committee and City Council;

(c) supervise the review of complex stormwater management permits;

(d) notify all of the communities in the County, FEMA, IDNR-OWR, COE, NRCS, the Soil and Water Conservation District, the United States Fish and Wildlife Service, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency of any amendments to the Plan or to this ordinance;

(e) maintain a current list of all maps considered regulatory under this ordinance; and

9-02. Duties of Administrator

The Administrator shall —

(a) ensure that all required stormwater related federal, state and regional permits and approvals are received prior to issuing any permit under this ordinance;

(b) shall be responsible for the general administration of this ordinance and ensure that all development activities within the floodplains under the jurisdiction of the City of Rockford meet the requirements of this ordinance.

(c) ascertain whether any special management areas exist on any site which is the subject of an

application for a permit under this ordinance;

(d) process stormwater management permits in accordance with Article 5;

(e) ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of Article 4;

(f) ensure that the building protection requirements for all buildings subject to Article 4 are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;

(g) assure that all subdivisions and annexations meet the requirements of the Chapter 121-Subdivision Ordinance;

(h) ensure that water supply and waste disposal systems meet the Public Health standards of Section 9;

(i) notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;

(j) provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(k) cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this ordinance;

(l) maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this ordinance;

(m) perform site inspections to ensure compliance with this ordinance and make substantial damage determinations for structures within the floodplain;

(n) maintain documentation and data on the cost of any improvement to a structure in the floodplain in order to enforce the provisions of this ordinance pertaining to substantial improvements to such structures;

(o) maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within six months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map;

(p) if a variance is requested, ensure that the requirements of Section 11 are met and maintain documentation of any variances granted;

(q) ensure that the required notice of an application for a variance has been given and published in accordance with Secs. 9-04 and 9-05;

(r) notify an applicant for a variance that such variance may result in increased rates for flood insurance, if applicable;

(s) notify the Director of an application for a CLOMR or LOMR;

(t) provide for inspections of developments as required by this ordinance;

(u) investigate complaints of violations of this ordinance within the City;

(v) notify violators within regulatory floodplains that failure to comply with the provisions of the National Flood Insurance Program could make them ineligible to receive flood insurance;

(w) initiate any proceeding necessary to enforce this ordinance within the City;

(x) advise, consult and cooperate with other governmental agencies to promote the purposes of this ordinance;

(y) maintain copies of all applications and submittals, federal and state permits, variances, CLOMR, LOMR, CLOMA, LOMA and all documentation associated with any of the foregoing for public inspection;

(z) notify adjacent communities in writing 30 days prior to the issuance of a stormwater management permit involving the alteration or relocation of a watercourse;

(aa) ensure that all wetland impacts have been mitigated;

(bb) administer Article 12.

9-03 Duties of the Stormwater Board of Appeals

The Stormwater Board of Appeals replaces the Flood Hazard Board of Appeals. The Stormwater Board of Appeals shall consist of the Executive Director of the Soil and Water Conservation District or designee, the president or designee of the local chapter of the Illinois Society of Professional Engineers, and the president or designee of the Northern Illinois Building Contractors Association.

The Stormwater Board of Appeals is vested with the following jurisdiction and authority:

(a) To hear, study and decide as a group, appeals of any order, requirements, decision, or interpretation made by the administrator. The board may reverse, affirm, modify or amend the appealed order, requirements, decision or determination.
(b) To hear and rule upon applications for variations from a strict application of the terms of this ordinance.
(c) The Stormwater Board of Appeals does not have authority to review orders, requirements, decisions or interpretations made by the administrator under Sections 12 and 13 of this chapter.

9-04. Representative capacity

In all cases when any action is taken by the Director or the Administrator, or his or her duly appointed designee, to enforce the provisions of this ordinance, such action shall be taken in the name of the City and neither the Director nor the Administrator, nor his or her designee, in so acting shall be rendered personally liable.

9-05. Service

Unless otherwise provided herein, service of any notice or other instrument under this ordinance may be made upon any person—

(a) by first class mail, postage prepaid, addressed to address then on file for such person, if any, or if none, to such person's last known address; or

(b) by any method prescribed under the Illinois Code of Civil Procedure.

9-06. Publication

Unless otherwise provided herein, publication of any notice or other instrument under this ordinance shall be made by publishing such notice or other instrument once in a newspaper published within the City such publication being not less than 15 nor more than 30 days before the hearing or other event to which the publication relates.

ARTICLE 10— PERFORMANCE SECURITY

10-00. General security requirements

(a) To secure the performance of the developer's obligation to complete the construction of the stormwater facilities required by the stormwater management permit, and to pay all costs, fees and charges due under this ordinance, and to fully and faithfully comply with all of the provisions of this ordinance, the applicant shall, prior to the issuance of a stormwater management permit—

(1) post the security provided in Sec. 10-01; and

(2) post the security provided in Sec. 10-02 if an erosion and sediment control plan is required under this ordinance; and

(3) post the security provided in Sec. 10-03 if mitigation for a wetland impact is required under this ordinance and the applicant chooses to mitigate within a wetland mitigation facility.

(b) The applicant shall bear the full cost and responsibility of obtaining and maintaining the security required by this Article.

10-01. Development security

(a) In all cases the applicant shall post—

(1) a schedule, agreed upon by the applicant and the Administrator for the completion of any stormwater facilities required by the permit;

(2) a statement of the estimated probable cost to complete the construction of any stormwater facilities required by the permit which estimate is subject to the approval of the Administrator; and

(3) an irrevocable letter of credit in favor of the permitting authority, or such other adequate security as the Administrator may approve, in an amount equal to 110% of the approved estimated probable cost to complete the construction of any required stormwater facilities.

(b) The security required by this section shall be maintained by the applicant in favor of the permitting authority until all stormwater facilities required by the permit have been completed, all conditions set forth in the permit have been satisfied and the applicant has complied with all of the provisions of this ordinance.

(c) The Administrator may approve periodic reductions in the amount of the security based upon the progress of construction. At no time, however, shall more than 90% of the security be released prior to approval of record drawings and final inspection. A minimum of 10% of the original amount of the security shall be retained for a period of one year after completion of all required stormwater facilities.

10-02. Erosion and sediment control security

(a) If an erosion and sediment control plan is required under this ordinance the applicant shall post—

(1) a statement of the estimated probable cost to install and maintain the erosion and sediment control measures required by the plan which estimate is subject to the approval of the

Administrator; and

(2) an irrevocable letter of credit in favor of the permitting authority, or such other adequate security as the Administrator may approve, in an amount equal to 110% of the approved estimated probable cost to install and maintain the required erosion and sediment control measures.

(b) The security required by this section shall be maintained by the applicant in favor of the permitting authority until construction has been completed, vegetation had been established, sediment has been removed from all stormwater facilities and the development has been finally inspected and approved by the Administrator at which time it shall be released.

(c) An erosion and sediment control inspection fee shall be paid in accordance with the approved fee schedule as set by separate ordinance.

10-03. Letters of credit

(a) Letters of credit posted pursuant to this Article shall be in a form satisfactory to the Administrator.

(b) Each letter of credit shall be drawn on an institution (1) acceptable to the Administrator; (2) having assets of at least $10 million; (3) having an office in the Rockford - Chicago metropolitan area; and (4) that is a member of the Federal Deposit Insurance Corporation.

(c) Each letter of credit shall provide that—

(1) it is irrevocable;

(2) the consent of the applicant is not required prior to its presentment for payment; and

(3) if at any time it will expire within 45 or any lesser number of days, and if it has not been renewed and the renewal submitted to the Administrator, and if any obligation of the applicant for which it stands as security remains uncompleted or is unsatisfactory, then the Administrator may, without notice and without being required to take any further action of any nature whatsoever, present the letter of credit for payment and thereafter either hold all proceeds as security for the satisfactory completion of all such obligations or employ the proceeds to complete all such obligations and reimburse the permitting authority for any and all costs and expenses, including legal fees and administrative costs, incurred by the permitting authority.

(d) If the Administrator at any time determines that the amount of the letter of credit is not, or may not be, sufficient to pay in full the remaining unpaid cost of the construction of all stormwater facilities or the installation and maintenance of all erosion and sediment control measures, then, within 10 days following a demand by the Administrator, the applicant shall increase the amount of the letter of credit to the amount determined by the Administrator to be sufficient to pay such unpaid costs. Failure to increase the amount of the letter of credit shall be grounds for the Administrator to present the letter of credit for payment.

(e) If at any time the Administrator determines that the bank issuing the letter of credit is without assets of at least $10 million, is unable to meet any federal or state requirement for reserves, is insolvent, is in danger of becoming any of the foregoing, or is otherwise in danger of being unable to honor such letter of credit at any time during its term, or if the Administrator otherwise reasonably deems the permitting authority to be insecure, then the Administrator shall have the

right to demand that the applicant provide a replacement letter of credit from a bank meeting the requirements of this section. Such replacement letter of credit shall be deposited with the Administrator not less than 10 days following such demand. Upon such deposit, the Administrator shall surrender the original letter of credit to the applicant.

(f) If the applicant fails or refuses to fully meet any of its obligations under this ordinance then the Administrator may, in his or her discretion, present the letter for payment and thereafter either hold all proceeds as security for the satisfactory completion of all such obligations or employ the proceeds to complete all such obligations or otherwise mitigate the effects of such failure or refusal and may reimburse the permitting authority for any and all costs and expenses, including legal fees and administrative costs, incurred by the permitting authority. If as a result of such default, the remaining amount of the letter of credit is less than the amount otherwise required to be then maintained under this Article, then the applicant shall, upon demand of the Administrator therefor, immediately deposit with the Administrator such additional funds as the Administrator determines to be required to be then maintained.

ARTICLE 11—RESERVED

ARTICLE 12 – ILLICIT DISCHARGE DETECTION AND ELIMINATION

12-01. Responsibility for Administration.

The Administrator shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Administrator to persons or entities acting in the beneficial interest of or in the employ of the City.

12-02. Discharge Prohibitions.

Prohibition of Illegal Discharges.
No person shall discharge or cause to be discharged into the Storm Drain System or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than Stormwater.

The commencement, conduct or continuance of any such Illegal Discharge to the Storm Drain System is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing Pollutants.

(2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(4) The prohibition shall not apply to any non-Stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections.

(1) No Person shall construct, use, maintain or allow the continued existence of an Illicit Connection to the Storm Drain System.

(2) This prohibition expressly includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A Person is considered to be in violation of this ordinance if the Person connects a line conveying sewage to the Storm drain System, or allows such a connection to continue.

12-03. Suspension of Access to the Storm Drain System.

Suspension due to Illicit Discharges in Emergency Situations.

The Administrator may, without prior notice, suspend discharge access to the Storm Drain System to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Storm Drain System or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the Storm Drain System or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge.

Any Person discharging to the Storm Drain System in violation of this ordinance may have their access to the Storm Drain System terminated if such termination would abate or reduce an Illicit Discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the Administrator for a reconsideration and hearing.

A Person commits an offense if the person reinstates access to the Storm Drain System to premises terminated pursuant to this Section, without the prior approval of the Administrator.

12-04. Industrial or Construction Activity Discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit and with Article 3 and 5 of this ordinance. Proof of compliance with said permit may be required in a form acceptable to the Administrator prior to the allowing of discharges to the MS4.

12-05. Monitoring of Discharges.

A. Applicability.

This section applies to all facilities that have Stormwater discharges to the Storm Drain System associated with industrial activity, including construction activity. All Persons conducting Industrial Activities shall comply with this section.

B. **Access to Facilities.**

(1) The Administrator shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow Administrator ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The Administrator shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Administrator has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy. The discharger shall provide the City all monitoring and/or sampling results upon request.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Administrator and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing Administrator access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with Industrial Activity commits an offense if the person denies the Administrator reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(7) If the Administrator has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

12-06. Requirements to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

The Administrator will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an Illicit Discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

12-07. Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned

structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

12-08. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in Illegal Discharges of Pollutants discharging into stormwater, the Storm Drain System, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Administrator in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Administrator within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

ARTICLE 13—ENFORCEMENT AND PENALTIES

13-00. Inspection and maintenance authority

The City has the authority to inspect properties pursuant to Articles 6 and 12 of this ordinance. Additionally, pursuant to the authority granted by 65 ILCS 5/11, *et al* and 415 ILCS 5/1 *et seq*. the City may, upon 10 days' notice to the owner or occupant, enter upon any lands or waters within the City for the purpose of maintaining any stormwater facilities or causing the removal of any obstruction to an affected watercourse.

13-01. Required inspections

Any development constructed pursuant to a stormwater management permit, final plat or drainage easement may be periodically inspected by the Administrator or Director to ensure its conformity with this ordinance and the terms and conditions of its permit, final plat or drainage easement.

13-02. Offenses

(a) Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any provision of this ordinance (***ordinance violation***), or any requirement or condition in any permit issued pursuant to this ordinance (***permit violation***), and, in the case of a permit and/or ordinance violation, fails to correct such violation, omission or neglect, or cease such disobedience, refusal or resistance after notice and re-inspection as provided below, shall be guilty of an offense under this ordinance.

(b) Whenever the Administrator or Director, as the case may be, determines that a violation exists, he shall follow the procedures in the City of Rockford's Stormwater Division Enforcement Response Plan and serve notice of the violation in the manner prescribed in Sec. 9-05 on the violator. Such notice shall state the nature of the violation and fix a date not less than 10 days after the date of the notice by which the violation shall be corrected and the site re-inspected, except in the case of a violation of Article 3 or Article 12, in which case the notice may require the correction of the violation and re-inspection of the site within as little as a day.

13-03. Offenses - penalties; remedies

(a) Hearing Regarding of Notice of Violation.

Any person receiving a Notice of Violation shall be entitled to a hearing on the determination of the Administrator before the Code Hearing Officer under the procedures of Division 4, Article XI, Code Enforcement, Chapter 2 of the Code of Ordinances.

1. For special flood hazard area violations, the Code Hearing Officer shall inform the owner that any violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended

(b) The Administrator or Director may pursue any one or more of the following remedies against any person found by him or her to be guilty of an offense under this ordinance:

(1) The Administrator or Director may impose a civil fine upon such person. Each calendar day during which such violation continues to exist shall constitute a separate offense. Fines are set

forth in the fee schedule as approved by separate ordinance.

(2) The Administrator or Director may revoke any stormwater management permit issued to such person.

(3) The Administrator or Director may issue an order requiring the suspension of any further work on the site. Such stop-work order shall be in writing, shall indicate the reason for its issuance, and shall specify the action, if any, required to be taken in order to resume work. One copy of the stop-work order shall be posted at any/all entrances of the site and one copy shall be served in the manner prescribed in Sec. 9-04 upon the permittee, if any, or if none, upon the person in whose name the site was last assessed for taxes as disclosed by the records of the Supervisor of Assessments.

(4) The Administrator or Director may require that the area impacted be fully restored to its condition existing prior to such development, disturbance or impact. In the case of a wetland impact the area's pre-existing condition shall be determined by reference to a creditable wetland assessment performed within two years of such impact.

(5) The Administrator or Director may require the person to apply "after the fact" for the appropriate permit for an unpermitted development, disturbance or impact.

(6) Whenever the Administrator finds that a Person has violated a prohibition or failed to meet a requirement of this Ordinance, the Administrator shall order compliance by written notice of violation to the responsible person. Such notice may require but is not limited to the following:

(a) The performance of monitoring, analyses, and reporting;
(b) The elimination of Illicit Connections or Discharges;
(c) That violating discharges, practices, or operations shall cease and desist;
(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
(e) Payment of a fine and administrative and remediation costs; and
(f) The implementation of source control or treatment BMPs.

(c) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(d) In order to enforce any of the remedies set forth in the preceding paragraph, the Administrator or the Director may bring any action, legal or equitable, including an action for injunctive relief, deemed necessary. In any such action, in addition to any fine or other relief, the Administrator or the Director may recover all costs and expenses, including reasonable attorney fees, incurred.

13-04. Enforcement Measures After Appeal.

If the violation has not been corrected or corrections initiated to the satisfaction of the Administrator within 10 days of the decision of Code Hearing Officer, then representatives of the Administrator may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any Person, owner, agent or

person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

13-05. Cost of Abatement of the Violation.

Within 30 days after abatement of the violation, the owner of the property or other Person responsible for the violation will be notified of the cost of abatement, including administrative costs. The amount of costs may be appealed to the Code Hearing Officer under Division 3, Article XI, Chapter 2 of the Code of Ordinances. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

13-06. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Administrator may petition a court of proper jurisdiction for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

13-07. Violations Deemed A Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

13-08. Penalties.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a fine of not to exceed $750 dollars per violation per day.

13-09. Remedies Not Exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

13-10. Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of Pollutants.

APPENDIX A—SAMPLE SPECIAL SERVICE AREA ORDINANCES

[CITY OF ROCKFORD]

ORDINANCE NO. _____

AN ORDINANCE PROPOSING THE ESTABLISHMENT OF THE _____ SPECIAL SERVICE AREA [or SPECIAL SERVICE AREA NO._____]) OF_____, ILLINOIS AND THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST OF PROVIDING SPECIAL SERVICES IN AN FOR SUCH AREA

ADOPTED BY THE
MAYOR AND CITY COUNCIL
OF THE
CITY OF ROCKFORD

[DATE]

Published in pamphlet form by authority of the Mayor and City Council of the City of Rockford
Winnebago County, Illinois,
[Date].

ORDINANCE NO. _____

AN ORDINANCE PROPOSING THE ESTABLISHMENT OF THE _____ SPECIAL SERVICE AREA [or SPECIAL SERVICE AREA NO._____] OF_____, ILLINOIS AND THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST OF PROVIDING SPECIAL SERVICES IN AN FOR SUCH AREA

WHEREAS pursuant to the provisions of the 1970 Constitution of the State of Illinois (the ***Constitution***), the City of Rockford, Winnebago County, Illinois (the ***City***), is authorized to create special service areas in and for the City; and

WHEREAS special service areas are established by non-home rule units pursuant to Section 7(6) of Article VII of the Constitution, which provides that—

> [M]unicipalities…which are not home rule units shall have…powers…to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services;

and are established "in the manner provided by law" pursuant to the provisions of "AN ACT to provide the manner of levying or imposing taxes for the provision of special services to areas within the boundaries of home rule units and non-home rule municipalities and counties," approved September 21, 1973, as amended, and pursuant to the Revenue Act of 1939 of the State of Illinois, as amended; and

WHEREAS it is in the public interest that the establishment of the area hereinafter described as a special service area for the purposes set forth herein and to be designated as the_____Special Service Area [or Special Service Area No._____], of the City (the ***Area***) be considered; and

WHEREAS the Area is compact and contiguous, totally within the corporate limits of the City; and

WHEREAS the Area will benefit specially from the municipal services to be provided by the City (the ***Services***), and the Services are unique and in addition to the services provided to the City as a whole, and it is, therefore, in the best interests of the City that the establishment of the Area be considered; and

WHEREAS it is in the public interest that the levy of a direct annual *ad valorem* tax upon all taxable property within the Area be considered for the purpose of paying the cost of providing the Services; and

WHEREAS the revenue from such tax shall be used solely and only for Services for which the City is authorized under the provisions of the Illinois Municipal Code, as amended, to levy taxes or special assessments or to appropriate the funds of the City, all of the Services to be in and for the Area and all of the necessary construction and maintenance to be on property now owned or to be acquired by the City, or property in which the City will obtain an interest sufficient for the provision of the Services; and

WHEREAS said direct annual *ad valorem* tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year_____and shall not exceed an annual rate of _____of the assessed valuation of each tax parcel within the Area and shall be in addition to all other taxes permitted by law; and

.

WHEREAS a public hearing will be held at_____, on the _____ day of _____,_____, in the City Hall,_____,_____, Illinois _____(the ***Hearing***), to consider the establishment of the Area for the purpose of providing the Services and the levy of an additional direct annual *ad valorem* tax for the purpose of paying the cost thereof, all as described in the Notice of Public Hearing set forth in Section 2 hereof (the ***Notice***); and

WHEREAS the Notice shall be given by publication and mailing. Notice by publication shall be given by publication on a date, such date being not less than 15 days prior to the Hearing, in a newspaper published within the City. Notice by mailing shall be given by depositing the Notice in the United States Mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the Area. The Notice shall be mailed not less than 10 days prior to the time set for the Hearing. In the event taxes for the last preceding year were not paid, the Notice shall be sent to the person last listed on the tax rolls prior to that year as the owner of said property.

NOW, THEREFORE, Be it Ordained by the Mayor and City Council of the City of Rockford, Winnebago County, Illinois, as follows:

§1. Incorporation of preambles

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

§2. Notice

The Mayor and City Council determine that the Notice is in the proper statutory form as set forth as follows:

NOTICE OF PUBLIC HEARING
CITY OF ROCKFORD, WINNEBAGO COUNTY, ILLINOIS
_____ SPECIAL SERVICE AREA [or NO._____]

NOTICE IS HEREBY GIVEN that on_____, at_____, in the City Hall, _____,_____, Illinois, a public hearing (the ***Hearing***) will be held by the Mayor and City Council of the City of Rockford, Winnebago County, Illinois (the ***City***), to consider the establishment of the_____Special Service Area [No._____], (the ***Area***), of the City, consisting of the following described territory:

SEE ATTACHED EXHIBIT A

Said territory consists of approximately____acres lying [insert general description of location]. An accurate map of said territory is on file in the office of the City Clerk and is available for public inspection.

The purpose of the establishment of the Area is to provide the following special services (the ***Services***) to the Area: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any stormwater site runoff storage area, drainageway, ditch, swale, storm sewer or other stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, all of the Services to be in and for the Area.

All of the Services are to be on property now owned or to be acquired by the City, or property in which the City will obtain an interest sufficient for the provision of the Services.

The levy of a direct annual *ad valorem* tax upon all taxable property within the Area for the purpose of paying the cost of the Services will also be considered at the Hearing. The tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year_____and

shall not exceed an annual rate of_____of the assessed valuation of each tax parcel within the Area and shall be in addition to all other taxes permitted by law.

All interested persons affected by the establishment of the Area or tax levy, including all owners of real estate located within the Area, will be given an opportunity to be heard at the Hearing regarding the establishment of the Area and the tax levy and an opportunity to file objections to the establishment of the Area or the tax levy.

At the Hearing, any interested persons affected by the Area may file with the City Clerk written objections to and may be heard orally in respect to any issues embodied in this notice. The Mayor and City Council shall hear and determine all protests and objections at the Hearing, and the Hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of its adjournment.

If a petition signed by at least 51% of the electors residing within the Area and by at least 51% of the owners of record of the land included within the boundaries of the Area is filed with the City Clerk within 60 days following the final adjournment of the Hearing objecting to the creation of the Area or the levy or imposition of a tax for the provision of the Services to the Area, no such Special Service Area may be created or no tax may be levied or imposed.

By order of the Mayor and City Council of the City of Rockford, Winnebago County, Illinois.

DATED this_____day of_____,_____.

/s/_____
Mayor, City of Rockford, Winnebago County, Illinois

§3. Miscellaneous

The City agrees to produce or file such forms, statements, proceedings and supporting documents as may be required and in a timely manner in order to establish the Area and levy the taxes and, if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the City in these endeavors.

§4. Repealer; effective date

All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this ordinance be in full force and effect forthwith upon its passage, approval and publication as provided by law.

DATED: _____.

Alder-man/Trustee	***Aye***	***Nay***	***Absent***	***Abstain***
Totals				

Approved:

_____
Mayor

Attested, Filed in my office, and published in pamphlet form on_____, 20 :

_____
Clerk of the City of Rockford, Winnebago County, Illinois

CITYOF ROCKFORD

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE
_____ SPECIAL SERVICE AREA [OR NO._____]
OF_____, ILLINOIS
AND PROVIDING FOR THE LEVY OF TAXES FOR THE PURPOSE OF
PAYING THE COST OF PROVIDING SPECIAL SERVICES
IN AND FOR SUCH AREA

ADOPTED BY THE
MAYOR AND CITY COUNCIL
OF THE
CITY OF ROCKFORD

[DATE]

Published in pamphlet form by authority of the Mayor and City Council of the City of Rockford,
Winnebago County, Illinois
[Date]

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE _____ SPECIAL SERVICE AREA [or NO._____] OF _____, ILLINOIS AND PROVIDING FOR THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST OF PROVIDING SPECIAL SERVICES IN AND FOR SUCH AREA

WHEREAS, pursuant to the provisions of the 1970 Constitution of the State of Illinois (the ***Constitution***), the City of Rockford, Winnebago County, Illinois (the ***City***), is authorized to create special service areas in and for the City; and

WHEREAS, special service areas are established by non-home rule units pursuant to Section 7(6) of Article VII of the Constitution, which provides that—

> municipalities…which are not home rule units shall have only the powers granted to them by law and the powers…(6) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those ar- eas and for the payment of debt incurred in order to provide those special services;

and

WHEREAS, special service areas are established "in the manner provided by law" pursuant to the provisions of "AN ACT to provide the manner of levying or imposing taxes for the provision of special services to areas within the boundaries of home rule units and non-home rule municipalities and counties," approved September 21, 1973, as amended (the ***Act***), and pursuant to the provisions of the Revenue Act of 1939 of the State of Illinois, as amended; and

WHEREAS, it is in the public interest that the area hereinafter described be established as the _____Special Service Area [or No._____] of the City for the purposes set forth herein (the ***Area***); and

WHEREAS, the Area is compact and contiguous and totally within the boundaries of the City; and

WHEREAS, the Area will benefit specially from the services to be provided by the City (the ***Services***), and the Services are unique and in addition to the services provided to the City as a whole, and it is, therefore, in the best interests of the City that the Area be established; and

WHEREAS, the cost of providing the Services shall be paid by the levy of a direct annual *ad valorem* tax upon all taxable property within the Area; and

WHEREAS, said direct annual tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year_____and shall not exceed an annual rate of ._____of the assessed valuation of each tax parcel within the Area and shall be in addition to all other taxes permitted by law; and

WHEREAS, the establishment of the Area was proposed by the City Council of the City (the ***Council***) pursuant to Ordinance No._____, entitled:

> AN ORDINANCE proposing the establishment of the_____Special Service Area [or No._____] of_____, Illinois, and the levy of

taxes for the purpose of paying the cost of providing special services in and for such Area.

(the ***Proposing Ordinance***), duly adopted on_____, and was considered at a public hearing (the ***Hearing***) held by the Council on_____; and

WHEREAS, notice of the Hearing was given by publication at least once not less than 15 days prior to the Hearing in_____, the same being a newspaper published in the City; and

WHEREAS, mailed notice of the Hearing was given by depositing notice in the United States mails addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract or parcel of land lying within the Area not less than 10 days prior to the time set for the Hearing, and in the event taxes for the last preceding year were not paid, the notice was sent to the person or persons last listed on the tax rolls prior to that year as the owner or owners of said property; and

WHEREAS, said notice complied with all of the applicable provisions and requirements of the Act; and

WHEREAS, all interested persons affected by the establishment of the Area or the levy of the tax to pay the cost of providing the Services, including all owners of real estate located within the Area, were given an opportunity to be heard at the Hearing regarding the establishment of the Area and the levy of said tax and an opportunity to file objections to the establishment of the Area or the levy of said tax; and

WHEREAS, at the Hearing, all interested persons affected by the Area were permitted to file with the City Clerk written objections to and to be heard orally in respect to any issue embodied in the notice given of the Hearing; and

WHEREAS, the Council has determined and does hereby determine that it is in the public interest and in the interest of the City and the Area that the Area be established;

NOW, THEREFORE, Be It Ordained by the Mayor and City Council of the City of Rockford, Winnebago County, Illinois, as follows:

§1. Incorporation of preambles

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

§2. Final adjournment of Hearing

The Hearing was finally adjourned on_____.

§3. Establishment of Area

(a) The_____Special Service Area [or No._____] of the City is hereby established in and for the City and shall consist of the territory legally described in Exhibit A attached.

(b) Said territory consists of approximately_____acres lying [insert a general description of the location of the area] in the City. An accurate map of the Area is attached hereto and made a part hereof.

§4. Purpose of the establishing the Area

The purpose of establishing the Area is to provide the Services to the Area, including the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any site runoff storage area, drainageway, ditch, swale, storm sewer, or other stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal

and other costs or expenses incurred in connection therewith and with the administration of the Area, including the repayment of any loan or debt incurred for the provision of any of such Services, all of the Services to be in and for the Area and all of said construction and improvements to be on property now owned or to be acquired by the City, or property in which the City will obtain an interest sufficient for the provision of the Services.

§5. Tax Levy

The cost of the Services shall be paid by the levy of a direct annual *ad valorem* tax upon all taxable property within the Area for an indefinite period of time beginning for the year_____and shall not exceed an annual rate of_____of the assessed valuation of each tax parcel within the Area and shall be in addition to all other taxes permitted by law.

§6. Filing

The City Clerk is hereby directed to file a certified copy of this ordinance, including an accurate map of the Area, in the office of the Winnebgao County Clerk and in the office of the Winnebago County Recorder forthwith after its adoption and approval.

§7. Repealer

All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this ordinance be in full force and effect forthwith upon its adoption.

DATED: _____.

Alder-man/Trustee	*Aye*	*Nay*	*Absent*	*Abstain*
Totals				

Approved:

_____
Mayor

Attested, Filed in my office and published in pamphlet form on_____, 20 :

_____
Clerk of the City of Rockford, Winnebago County, Illinois