



Village of

# ***Little Chute***

## **AGENDA**

### **LITTLE CHUTE VILLAGE BOARD COMMITTEE OF THE WHOLE MEETING**

PLACE: Little Chute Village Hall

DATE: Wednesday, April 12, 2017

TIME: 6:00 p.m.

- A. Call to Order
- B. Roll Call
- C. Public Appearance for Items Not on the Agenda
  
- 1. Approval of Minutes  
*Minutes of the Regular Board Meeting of April 5, 2017*
- 2. Discussion—Emotional Support Animal Request
- 3. Discussion—Revision to Construction Site Erosion Control Ordinance
- 4. Discussion—Post Construction Storm Water Management Ordinance
- 5. Action—Approve Temporary Class “B” Retailers License for Cheesefest
- 6. Unfinished Business
- 7. Items for Future Agendas
- 8. Closed Sessions:
  - a) 19.85(1)(e) Wis. Stats. Deliberations or negotiations on the purchase of public properties, investing of public funds or conducting other specific public business when competitive or bargaining reasons require a closed session. *Prairie Water and Bridge Water Developments*
  - b) 19.85(1)(e) Wis. Stats. Deliberations or negotiations on the purchase of public properties, investing of public funds or conducting other specific public business when competitive or bargaining reasons require a closed session. *Possible Property Acquisition*
- 9. Adjournment

## MINUTES OF THE REGULAR BOARD MEETING OF APRIL 5, 2017

**Call to Order:** President Vanden Berg called the Regular Board Meeting to Order at 6:00 p.m.

### **Pledge Allegiance to the Flag**

President Vanden Berg led members in the reciting of the Pledge of Allegiance.

### **Roll call of Trustees**

PRESENT: Michael Vanden Berg, President  
Larry Van Lankvelt, Trustee  
James Hietpas, Trustee  
David Peterson, Trustee  
Skip Smith, Trustee  
John Elrick, Trustee  
Bill Peerenboom, Trustee

### **Roll call of Officers and Department Heads**

PRESENT: James Fenlon, Village Administrator  
Eric Misselt, Police Chief  
Teri Matheny, Finance Director  
Adam Breest, Director of Parks, Recreation and Forestry  
Jeff Elrick, Public Works Director  
Steve Thiry, Library Director  
Tyler Clairingbole, Village Attorney  
Laurie Decker, Village Clerk  
Interested Citizens

EXCUSED: Jim Moes, Community Development Director

### **Public Appearance for Items Not on the Agenda**

### **Approval of Minutes**

Minutes of the Committee of the Whole Meeting of March 22, 2017

*Moved by Trustee Van Lankvelt, seconded by Trustee Peterson to Approve the Minutes of the Committee of the Whole Meeting of March 22, 2017*

Ayes 7, Nays 0 – Motion Carried

### **Proclamations—Little Chute Chute-ing Stars and Little Chute High School Dance Team**

*Moved by Trustee Elrick, seconded by Trustee Smith to Issue Proclamations to Little Chute Chute-ing Stars and Little Chute High School Dance Team*

Ayes 7, Nays 0 – Motion Carried

### **Presentation—Windmill Update**

Debbie Van Boxel provided an overview of their new Miller Program. They have also incorporated educational activities for pre-school thru 5<sup>th</sup> grade. The Windmill has also added a small gift shop, and an event media room to rent for various events. The 2<sup>nd</sup> Annual Historical Society Quilt show is coming up in April.

### **Presentation—3D by Miron Construction on Municipal Services Building**

Melissa Schulteis from Miron Construction provided a presentation showing the Municipal Services Building in 3D.

**Discussion—Logo/Branding**

Jenny Vanden Heuvel presented final design options for four potential logos (including the current logo). The next step will be a visioning session in the Village Hall Board Room on Monday, April 17<sup>th</sup> following the Village's April Plan Commission meeting. In addition to the April 17<sup>th</sup> visioning session, we will conduct an engagement effort by using a survey tool online to receive feedback. These efforts will be publicized via press and social media efforts. The goal is to have a decision by May 17<sup>th</sup>. We will finalize the logo and launch the logo through pre-announcements in early June at the evening of the first Village Market on June 15<sup>th</sup> on the Windmill Plaza.

**Discussion—Little Chute Diamond Club Facility**

Administrator Fenlon and Director Breest presented documents for the overview of ground lease, building lease, promissory note, cost per foot and an update of revenue and expenses. Administrator Fenlon recommended action at the April 19<sup>th</sup> Regular Board meeting to give the Board time to review documents and submit any questions.

**Department and Officers Progress Reports**

Department and Officers provided progress reports to the Board.

**Operator License Approvals**

Schroeder, Ali	Rosehill	Appleton
Deeg, Dana	Jacks or Better	Appleton
Louthain, Jacob	Moasis	Appleton
Selle, Ryan	Walgreens	Appleton
Hackel, Carissa	Hollanders	Little Chute
Hendricks, Caryssa	Ladder House	Little Chute
Niko, Libby	5 <sup>th</sup> Quarter	De Pere
Button, Laurie	MotoMart	Kimberly
Gadicke, Rachel	M's Bar	Little Chute
Banick, Jeremy	5 <sup>th</sup> Quarter	Kaukauna
Baker, Bengi	Ladder House	Little Chute
Royer, Jacob	Seth's Coffee	Appleton

*Moved by Trustee Smith, seconded by Trustee Peerenboom to Approve Operator Licenses*

Ayes 6, Nays 0 – Motion Carried  
(Trustee Peterson stepped out)

**Action--- Adopt Ordinance No. 1, Series 2017 An Ordinance Amending Chapter 34 Public Utilities Article III Sewer Use and Industrial Cost Recovery Rate Regulations, Division 1.**

*Moved by Trustee Elrick, seconded by Trustee Smith to Adopt Ordinance No. 1, Series 2017 Amending Chapter 34 Public Utilities Article III Sewer Use and Industrial Cost Recovery Rate Regulations, Division 1*

Ayes 6, Nays 0 – Motion Carried  
(Trustee Peterson stepped out)

**Resolutions:****Adopt Resolution No. 10, Series 2017 Proclaiming Arbor Day in the Village of Little Chute**

*Moved by Trustee Elrick, seconded by Trustee Van Lankvelt to Adopt Resolution No. 10, Series 2017 Proclaiming Arbor Day in the Village of Little Chute*

Ayes 7, Nays 0 – Motion Carried

**Adopt Resolution No. 11, Series 2017 A Resolution Terminating Tax Incremental District #1 and Authorizing the Village Treasurer to Distribute Excess Increment to the Overlaying Taxing Districts of Outagamie County, Fox Valley Technical College, Village of Little Chute and Little Chute School Districts**

*Moved by Trustee Van Lankvelt, seconded by Trustee Peterson to Adopt Resolution No. 11, Series 2017 Terminating Tax Incremental District #1 and Authorizing the Village Treasurer to Distribute Excess Increment to the Overlaying Taxing Districts of Outagamie County, Fox Valley Technical College, Village of Little Chute and Little Chute School*

Ayes 7, Nays 0 – Motion Carried

**Adopt Resolution No. 12, Series 2017 A Resolution Authorizing the Sale of Real Estate Located at 904 East Evergreen Drive to Austin Michael Landeau**

*Moved by Trustee Elrick, seconded by Trustee Van Lankvelt to Adopt Resolution No. 12, Series 2017 Authorizing the Sale of Real Estate Located at 904 East Evergreen Drive to Austin Michael Landeau*

Ayes 7, Nays 0 – Motion Carried

**Disbursement List**

*Moved by Trustee Peerenboom, seconded by Trustee Elrick to Approve Disbursement List and Authorize the Finance Director to pay all vendors*

Ayes 7, Nays 0 – Motion Carried

**Call for Unfinished Business**

None

**Items for Future Agenda**

None

**Adjournment**

*Moved by Trustee Elrick, seconded by Trustee Smith to Adjourn the Regular Board Meeting at 8:38 pm.*

Ayes 7, Nays 0 - Motion Carried

**VILLAGE OF LITTLE CHUTE**

By: \_\_\_\_\_  
Michael R. Vanden Berg, Village President

Attest:

\_\_\_\_\_  
Laurie Decker, Village Clerk

Village of Little Chute  
**INFORMATION FOR VILLAGE BOARD CONSIDERATION**

**ITEM DESCRIPTION:** Revision to Construction Site Erosion Control and Post-construction Storm Water Management Ordinances.

**PREPARED BY:** Christopher Murawski, P.E. – Village Engineer

**REPORT DATE:** 4-12-17

**ADMINISTRATOR'S REVIEW/COMMENTS:**

No additional comments to this report: JPP

See additional comments attached: \_\_\_\_\_

**EXPLANATION:**

**Storm Water Management Planning (SWMP)**

Approve the revised articles listed below to update the Village of Little Chute's Construction Site Erosion Control and Post-construction Storm Water Management Ordinances. These revisions are part of the work Provided by Robert E. Lee & Associates, Inc. as part of the storm water planning grant. The reason for these changes is to comply with WPDES General Permit (WI-S050075-2) which requires the Village of Little Chute to update these ordinances to comply with the DNR's model ordinance dated April 2015. The referenced ordinances with red-line and highlighted revisions are attached for review.

ARTICLE VIII. - CONSTRUCTION SITE EROSION CONTROL

ARTICLE IX. - POST CONSTRUCTION STORMWATER MANAGEMENT (w/ TMDL)

**Additional information for incorporating TMDL requirements at this time.**

The U.S. Environmental Protection Agency (EPA) requires the waste load allocations (WLAs) developed as part of a Total Maximum Daily Load (TMDL) be reflected and implemented through permits. Currently the pollutant of concern for TMDLs in Wisconsin include total suspended solids (TSS) and total phosphorus (TP).

As described in the Village of Little Chute's MS4 permit, DNR will be requiring a TMDL implementation analysis and plan be completed by MS4 permittees subject to TMDL WLAs. This analysis and plan should be incorporated in the SWMP as required by the permittee's MS4 permit. The required date to have this completed is March 31, 2018. The final draft of these ordinances were reviewed by the WDNR and approved through e-mail correspondence on October 20, 2016. The Village of Little Chute has been encouraged to implement the TMDL requirements at this time to avoid a revision to Article IX within the next 12 months.

**RECOMMENDATION:** Approve the revisions to Article VIII and Article IX to update the Village of Little Chute's Construction Site Erosion Control and Post-construction Storm Water Management Ordinances with Total Maximum Daily Load requirements included.

## ARTICLE VIII. - CONSTRUCTION SITE EROSION CONTROL

### DIVISION 1. - GENERALLY

#### Sec. 34-771. - Authority.

- (a) This article is adopted under the authority granted by Wis. Stats. § 61.354. This article supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 61.35, that relates to construction site erosion control. Except as otherwise specified in Wis. Stats. §§ 61.35, 61.354, applies to this article and to any amendments to this article.
- (b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the same governing body.
- (c) The village board hereby designates the community development department and public works department to administer and enforce the provisions of this article.
- (d) The requirements of this article do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
  - (1) State department of natural resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
  - (2) Targeted nonagricultural performance standards promulgated in rules by the state department of natural resources under Wis. Admin. Code § NR 151.004.

(Code 2006, § 15-5-1; Ord. No. 16(Ser. of 2007), § 1, 12-19-2007)

#### Sec. 34-772. - Findings of fact.

The village board finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the village.

(Code 2006, § 15-5-2(a); Ord. No. 16(Ser. of 2007), § 2, 12-19-2007)

#### Sec. 34-773. - Purpose.

It is the purpose of this article to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the village.

(Code 2006, § 15-5-2(b); Ord. No. 16(Ser. of 2007), § 3, 12-19-2007)

#### Sec. 34-774. - Applicability and jurisdiction.

- (a) Article applicability to land disturbing activities; exception.
  - (1) This article applies to the following land disturbing construction activities except as provided under subsection (a)(2) of this section:

- a. A construction site, which has 4,000 square feet or greater of land disturbing construction activity.
- b. A construction site, which has 100 cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.
- c. A construction site, which has 100 linear feet or greater of land disturbance to a highway, street, driveway, swale, ditch, waters of the state, wetland, protective area, or other nonagricultural drainage facility which conveys concentrated flow. Wetlands shall be delineated in accordance with Wis. Admin. Code § NR 103.08(1m).

(2) This article does not apply to the following:

- a. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under 40 CFR 122, for land disturbing construction activity.
- b. Nonpoint discharges from agricultural activity areas.
- c. Nonpoint discharges from silviculture activities.
- d. Mill and crush operations.
- e. Land disturbing construction activity that includes the construction of one- and two-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one acre of disturbance. ~~These construction sites are regulated by the state department of commerce under Wis. Admin. Code § COMM 21.125. These sites are regulated by the Village of Little Chute Building Inspection Department.~~

(3) Notwithstanding the applicability requirements in subsection (a)(1) of this section, this article applies to construction sites of any size that, in the opinion of the community development department or public works department, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

- (b) Jurisdiction - This article applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the village.
- (c) Exclusions - This article is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2).

(Code 2006, § 15-5-3; Ord. No. 16(Ser. of 2007), § 4, 12-19-2007)

#### Sec. 34-775. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administering authority means a governmental employee, or a regional planning commission empowered under Wis. Stats. § 61.354, that is designated by the village board to administer this article.

Agricultural activity area means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

Agricultural production area means the part of the farm where there is concentrated production activity or impervious surfaces. The term "agricultural production areas" include buildings, driveways,

parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The term "agricultural production area" does not include the agricultural activity area.

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this article, average annual rainfall means measured precipitation in Green Bay, Wisconsin, between March 29 and November 25, 1969.

Best management practice (BMP) means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the community development department or public works department is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Common plan of development or sale means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. The term "common plan of development or sale" includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

Construction site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development.

**Design Storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.**

Development means residential, commercial, industrial, institutional, or other land uses and associated roads.

Division of land means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a five year period.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

Extraterritorial means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

Governing body means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

Land disturbing construction activity or disturbance means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. The term "land disturbing construction activity" includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

**Landowner means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.**

~~Maximum extent practicable (MEP) means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best~~



~~available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.~~ the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with section 34-776 of this ordinance.

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the community development department or public works department to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pollutant has the meaning given in Wis. Stats. § 283.01(13).

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Protective area has the meaning given in section 34-949(c)(4).

Responsible party means any entity holding fee title to the property or performing services to meet the performance standards of this article through a contract or other agreement.

Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catchbasins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not part of a combined sewer system.
- (3) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Stop work order means an order issued by the community development department or public works department which requires that all construction activity on the site be stopped.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

~~Transportation facility means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1)(b), Wis. Stats. Transportation facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.~~

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

(Code 2006, § 15-5-4; Ord. No. 16(Ser. of 2007), § 5, 12-19-2007)

#### **Sec. 34-776. – Applicability of Maximum Extent Practicable.**

~~Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the Village's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance~~

standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

**Sec. 34-777. - Fee schedule.**

The fees referred to in other sections of this article shall be established by the village board and may from time to time be modified by resolution. A schedule of the fees established by the village board shall be available for review in the community development department and public works department.

(Ord. No. 16(Ser. of 2007), § 10, 12-19-2007)

**Sec. 34-778. - Inspection.**

If land disturbing construction activities are being carried out without a permit required by this article, the community development department or public works department may enter the land pursuant to the provisions of Wis. Stats. § 66.0119(1)—(3).

(Code 2006, § 15-5-9; Ord. No. 16(Ser. of 2007), § 11, 12-19-2007)

**Secs. 34-779—34-807. - Reserved.**

**DIVISION 2. - STANDARDS**

**Sec. 34-808. - Technical standards.**

- (a) Design criteria, standards and specifications. All BMPs required to comply with this article shall meet the design criteria, standards and specifications based on any of the following:
  - (1) Design guidance and technical standards identified or developed by the state department of natural resources under Wis. Admin. Code ch. NR 151, subch. V (Wis. Admin. Code §§ NR 151.30—151.32).
  - (2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.
  - (3) Technical standards and other guidance identified within the stormwater reference guide.
  - (4) For this article, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.
- (b) Other standards - Other technical standards not identified or developed in subsection (a) of this section, may be used provided that the methods have been approved by the community development department or public works department.

(Code 2006, § 15-5-5; Ord. No. 16(Ser. of 2007), § 6, 12-19-2007)

**Sec. 34-809. - Performance standards.**

- (a) Responsible party - The responsible party shall implement an erosion and sediment control plan, developed in accordance with division 4 of this article that incorporates the requirements of this section.
- (b) Plan - A written erosion and sediment control plan shall be developed in accordance with division 4 of this article and implemented for each construction site.
- (c) Requirements - The erosion and sediment control plan shall meet the following minimum requirements to the maximum extent practicable:
  - (1)
  - (3) Where appropriate, the plan shall include erosion and sediment controls to do all of the following to the maximum extent practicable:
    - a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
    - b. Prevent the discharge of sediment as part of site dewatering.
    - c. Protect the separate storm drain inlet structure from receiving sediment.
    - d. Prevent the discharge of sediment from disturbed areas into adjacent waters of the state.
    - e. Prevent the discharge of sediment eroding from soil stockpiles existing for more than 7 days.
    - f. Prevent the discharge of sediment from erosive flows at outlets and in downstream channels.
    - g. Prevent the transport by runoff into the waters of the state of untreated wash water from vehicle and wheel washing.
  - (4) The use, storage and disposal of building materials, chemicals, cement, concrete truck washout, litter, sanitary waste, and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into storm sewers and waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subsection.
  - (5) Sediment Performance Standards - In addition to the erosion and sediment control practices under par. (3), the following erosion and sediment control practices shall be employed:
    - a. BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
    - b. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
    - c. Notwithstanding subsection (a), if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site- specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.
- (d) Preventive Measures
  - (1) Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
  - (2) Minimization of soil compaction and preservation of topsoil.

- (3) Minimization of land disturbing construction activity on slopes of 20 percent or more.
- (4) Development of spill prevention and response procedures.
- (e) Location - The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.
- (f) Implementation – The BMP's used to comply with this section shall be implemented as follows:
  - (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in Sec. 34-809.(c).
  - (2) Erosion and sediment control practices shall be maintained until final stabilization.
  - (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
  - (4) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
  - (5) BMP's that are no longer necessary for erosion and sediment control shall be removed by the responsible party.
- (f) Alternate requirements - The community development department or public works department may establish requirements more stringent than those set forth in this section if the community development department or public works department determines that an added level of protection is needed for sensitive resources.

(Code 2006, §§ 15-5-6, 15-5-7; Ord. No. 16(Ser. of 2007), § 7, 12-19-2007)

Secs. 34-810—34-826. - Reserved.

### DIVISION 3. - PERMITTING REQUIREMENTS, PROCEDURES AND FEES

Sec. 34-827. - Required.

No responsible party may commence a land disturbing construction activity subject to this article without receiving prior approval of an erosion and sediment control plan for the site and a permit from the community development department or public works department.

(Code 2006, § 15-5-8(a); Ord. No. 16(Ser. of 2007), § 8(1), 12-19-2007)

Sec. 34-828. - Application and fees.

At least one responsible party desiring to undertake a land disturbing construction activity subject to this article shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of division 4 of this article and shall pay fees identified in section 34-776 to the community development department or public works department. By submitting an application, the applicant is authorizing the community development department or public works department to enter the site to obtain information required for the review of the erosion and sediment control plan.

(Code 2006, § 15-5-8(a); Ord. No. 16(Ser. of 2007), § 8(2), 12-19-2007)

**Sec. 34-829. - Review and approval of permit application.**

The community development department or public works department shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

- (1) Within 20 business days of the receipt of a complete permit application, as required by section 34-828, the community development department or public works department shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this article.
- (2) If the permit application and plan are approved, the community development department or public works department shall issue the permit.
- (3) If the permit application or plan is disapproved, the community development department or public works department shall state, in writing, the reasons for disapproval.
- (4) The community development department or public works department may request additional information from the applicant. If additional information is submitted, the community development department or public works department shall have 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
- (5) Failure by the community development department or public works department to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(Code 2006, § 15-5-8(d); Ord. No. 16(Ser. of 2007), § 8(3), 12-19-2007)

**Sec. 34-830. - Surety bond.**

As a condition of approval and issuance of the permit, the community development department or public works department may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(Code 2006, § 15-5-8(e)(2); Ord. No. 16(Ser. of 2007), § 8(4), 12-19-2007)

**Sec. 34-831. - Requirements.**

All permits shall require the responsible party to:

- (1) Notify the community development department or public works department within 48 hours of commencing any land disturbing construction activity.
- (2) Notify the community development department or public works department of completion of any BMPs within ten business days after their installation.
- (3) Obtain permission, in writing, from the community development department or public works department prior to any modification, pursuant to section 34-829, of the erosion and sediment control plan.
- (4) Install all BMPs as identified in the approved erosion and sediment control plan.
- (5) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.

- (6) Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land disturbing construction activities and document repairs in weekly inspection reports.
- (7) Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater. Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification that repair or replacement is needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following:
  - a. Date, time and location of the construction site inspection;
  - b. The name of individual who performed the inspection;
  - c. An assessment of the condition of erosion and sediment controls;
  - d. A description of any erosion and sediment control BMP implementation and maintenance performed; and
  - e. A description of the present phase of land disturbing construction activity at the construction site.
- (8) Allow the community development department or public works department to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan, stormwater management plan, amendments, weekly inspection reports, and permit at the construction site until permit coverage is terminated.
- (9) The permit applicant shall post the certificate of permit coverage in a conspicuous location at the construction site.

(Ord. No. 16(Ser. of 2007), § 8(5), 12-19-2007)

#### Sec. 34-832. - Conditions.

Permits issued under this section may include conditions established by the community development department or public works department in addition to the requirements set forth in section 34-831, where needed to ensure compliance with the performance standards in section 34-949.

(Code 2006, § 15-5-8(e)(3); Ord. No. 16(Ser. of 2007), § 8(6), 12-19-2007)

#### Sec. 34-833. - Duration.

Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The community development department or public works department may extend the period one or more times for up to an additional 180 days. The community development department or public works department may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this article.

(Code 2006, § 15-5-8(e)(1); Ord. No. 16(Ser. of 2007), § 8(7), 12-19-2007)

#### Sec. 34-834. - Maintenance.

The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this article until the site has undergone final stabilization.

(Code 2006, § 15-5-6; Ord. No. 16(Ser. of 2007), § 8(8), 12-19-2007)

**Sec. 34-835. - Alternate requirements.**

The community development department or public works department may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than one acre of disturbance.

(Ord. No. 16(Ser. of 2007), § 8, 12-19-2007)

**Secs. 34-836—34-863. - Reserved.**

**DIVISION 4. - PLAN STATEMENT AND AMENDMENTS**

**Sec. 34-864. - Requirements.**

The erosion and sediment control plan required under section 34-949(b) shall comply with the stormwater reference guide and contain at a minimum the following information:

- (1) Name, address, and telephone number of the landowner and responsible parties, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
- (2) A legal description of the property proposed to be developed.
- (3) Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
- (4) A site map with property lines, disturbed limits, and drainage patterns.
- (5) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities. Include a description of intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- ~~(6) Proposed best management practices.~~
- ~~(6) Performance standards applicable to site.~~ Calculations to show the compliance with the performance standard in section 34-809.
- ~~(7) Existing data describing the surface soil as well as subsoils.~~
- ~~(8) Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.~~
- ~~(9) Name of immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.~~
- (10) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to two five feet.



- a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on or immediately adjacent to the site shall be shown. Any identified 100-year flood plans, flood fringes and floodways shall also be shown.
  - b. Boundaries of the construction site.
  - c. Drainage patterns and approximate slopes anticipated after major grading activities.
  - d. Areas of soil disturbance.
  - e. Location of major structural and non-structural controls identified in the erosion and sediment control plan.
  - f. Location of areas where stabilization BMPs will be employed.
  - g. Areas which will be vegetated following land disturbing construction activities.
  - h. Area(s) and location(s) of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
  - i. Area(s) used for infiltration of post-construction storm water runoff.
  - j. And alphanumeric or equivalent grid overlying the entire construction site map.
- (11) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:
- a. Description of interim and permanent stabilization practices, including a BMP implementation schedule. The erosion and sediment control plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
  - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the [administering authority], structural measures shall be installed on upland soils.
  - c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
  - d. Trapping of sediment in channelized flow.
  - e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
  - f. Protection of downslope drainage inlets where they occur.
  - g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
  - h. Clean up of off-site sediment deposits.
  - i. Proper disposal of building and waste material.
  - j. Stabilization of drainage ways.
  - k. Installation of permanent stabilization practices as soon as possible after final grading.
  - l. Minimization of dust to the maximum extent practicable.



- (12) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(Code 2006, § 15-5-8(b), (c); Ord. No. 16(Ser. of 2007), § 9(1), 12-19-2007)

Sec. 34-865. - Erosion and sediment control plan statement.

For each construction site identified under section 34-920(a)(3), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the community development department or public works department. The control plan statement shall briefly describe the site, **the BMPs that will be used to meet the requirements of the ordinance and including** a site map. Further, it shall also include the best management practices that will be used to meet the requirements of this article, including the site development schedule.

(Code 2006, § 15-5-8; Ord. No. 16(Ser. of 2007), § 9(2), 12-19-2007)

Sec. 34-866. - Amendments.

The applicant shall amend the plan if any of the following occur:

- (1) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
- (2) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
- (3) The community development department or public works department notifies the applicant of changes needed in the plan.

(Ord. No. 16(Ser. of 2007), § 9(3), 12-19-2007)

Sec. 34-867. - Alternate requirements.

The community development department or public works department may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than one acre of disturbance.

(Ord. No. 16(Ser. of 2007), § 9(4), 12-19-2007)

Secs. 34-868—34-897. - Reserved.

## DIVISION 5. - ENFORCEMENT AND APPEALS

Sec. 34-898. - Enforcement.

- (a) The community development department or public works department may post a stop work order if any of the following occurs:

- (1) Any land disturbing construction activity regulated under this article is being undertaken without a permit.
- (2) The erosion and sediment control plan is not being implemented in a good faith manner.
- (3) The conditions of the permit are not being met.
- (b) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the community development department or public works department may revoke the permit.
- (c) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the community development department or public works department, or if a responsible party violates a stop work order posted under subsection (a) of this section, the community development department or public works department may request the village attorney to obtain a cease and desist order in any court with jurisdiction.
- (d) The community development department, public works department, or the board of appeals may retract the stop work order issued under subsection (a) of this section or the permit revocation under subsection (b) of this section.
- (e) After posting a stop work order under subsection (a) of this section, the community development department or public works department may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this article. The community development department or public works department may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the community development department or public works department, plus interest at the rate authorized by the village board shall be billed to the responsible party or recovered from the surety bond, cash escrow, or irrevocable letter of credit. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Wis. Stats. ch. 66, subch. VII.
- (f) Any person violating any of the provisions of this article shall be subject to a forfeiture of not less than \$25.00 nor more than \$500.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (g) Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(Code 2006, § 15-5-10; Ord. No. 16(Ser. of 2007), § 12, 12-19-2007)

#### Sec. 34-899. - Appeals.

- (a) The board of appeals created pursuant to section 2-149 and Wis. Stats. § 61.354(4)(b):
  - (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the community development department or public works department in administering this article except for cease and desist orders obtained under section 34-898(c);
  - (2) Upon appeal, may authorize variances from the provisions of this article which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the article will result in unnecessary hardship; and
  - (3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (b) Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the village affected by any decision of the community development department or public works department.

(Code 2006, § 15-5-11; Ord. No. 16(Ser. of 2007), § 13, 12-19-2007)

**Secs. 34-900. - Severability.**

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

**Secs. 34-901—34-916. - Reserved.**

## ARTICLE IX. - POST CONSTRUCTION STORMWATER MANAGEMENT

### DIVISION 1. - GENERALLY

#### Sec. 34-917. - Authority.

- (a) This article is adopted by the village board under the authority granted by Wis. Stats. § 61.354. This article supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 61.35, that relate to stormwater management regulations. Except as otherwise specified in Wis. Stats. § 61.354, Wis. Stats. § 61.35 applies to this article and to any amendments to this article.
- (b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the same governing body.
- (c) The village board hereby designates the community development department and public works department to administer and enforce the provisions of this article.
- (d) The requirements of this article do not preempt more stringent stormwater management requirements that may be imposed by any of the following:
  - (1) State department of natural resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
  - (2) Targeted nonagricultural performance standards promulgated in rules by the state department of natural resources under Wis. Admin. Code § NR 151.004.

(Code 2006, § 15-5-20; Ord. No. 17(Ser. of 2007), § 1, 12-19-2007)

#### Sec. 34-918. - Findings of fact.

The village board finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loading.
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

(Code 2006, § 15-5-21(a); Ord. No. 17(Ser. of 2007), § 2, 12-19-2007)

#### Sec. 34-919. - Purpose and intent.

- (a) Purpose - The general purpose of this article is to establish long term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
- (1) Further the maintenance of safe and healthful conditions.
  - (2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
  - (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (b) Intent - It is the intent of the village board that this article regulates post-construction stormwater discharges to waters of the state. This article may be applied on a site-by-site basis. The village board recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this article is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stats. § 281.16, for regional stormwater management measures and have been approved by the village board, it is the intent of this article that the approved plan be used to identify post-construction management measures acceptable for the community.

(Code 2006, § 15-5-21(b); Ord. No. 17(Ser. of 2007), § 3, 12-19-2007)

**Sec. 34-920. - Applicability; jurisdiction; exclusions.**

- (a) Applicability.
- (1) Where not otherwise limited by law, this article applies to all post-construction sites, unless the site is otherwise exempt under subsection (b) of this section. Post construction sites include those sites preexisting the adoption of the ordinance from which this article is derived and those sites completed following of the adoption of the ordinance from which this article is derived.
  - (2) A post-construction site that meets any of the criteria in this subsection is exempt from the requirements of this article.
    - a. One-family and two-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one acre of disturbance.
    - b. Nonpoint discharges from agricultural activity areas.
    - c. Nonpoint discharges from silviculture activities.
    - d. Mill and crush operations.
  - (3) Notwithstanding the applicability requirements in this subsection, this article applies to post-construction sites of any size that, in the opinion of the community development department or public works department, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (b) Jurisdiction - This article applies to post construction sites within the boundaries and jurisdiction of the village. Post construction sites include those sites preexisting the adoption of the ordinance from

which this article is derived and those sites completed following the adoption of the ordinance from which this article is derived.

- (c) Exclusions - This article is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2).

(Code 2006, §§ 15-5-22, 15-5-24; Ord. No. 17(Ser. of 2007), § 4, 12-19-2007)

#### Sec. 34-921. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administering authority means a governmental employee, or a regional planning commission empowered under Wis. Stats. § 61.354, that is designated by the village board to administer this article.

Agricultural activity area means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The term "agricultural activity area" does not include the agricultural production area.

Agricultural production area means the part of the farm where there is concentrated production activity or impervious surfaces. The term "agricultural production areas" include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The term "agricultural production area" does not include the agricultural activity area.

Atlas 14 means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.

Average annual rainfall means a calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. For purposes of this article, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

Best management practice (BMP) means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the community development department or public works department is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Combined sewer system means a system for conveying both sanitary sewage and stormwater runoff.

Common plan of development or sale means a development or sale where multiple, separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. The term "common plan of development or sale" includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

Connected imperviousness means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

Construction site means an area upon which one or more land disturbing construction activities occur, or have occurred, including areas that are part of a larger common plan of development or sale.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. ~~The TR-55, type II, 24-hour~~

~~design terms~~ The Natural Resources Conservation Service (NRCS) calculated Outagamie County Atlas 14 precipitation depths for the Midwest/Southeast (MSE) 4 precipitation distribution for the village are:

- (1) One-year, ~~2.2~~ 2.14 inches;
- (2) Two-year, ~~2.5~~ 2.45 inches;
- (3) Five-year, ~~3.3~~ 3.01 inches;
- (4) Ten-year, ~~3.8~~ 3.51 inches;
- (5) Twenty five-year, ~~4.4~~ 4.24 inches;
- (6) Fifty-year, ~~4.9~~ 4.85 inches; and
- (7) One hundred-year, ~~5.3~~ 5.5 inches.

Development means residential, commercial, industrial, institutional, or other land uses and associated roads.

Division of land means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a five-year period.

Effective infiltration area means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Exceptional resource waters means waters listed in Wis. Admin. Code § NR 102.11.

Extraterritorial means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Filtering layer means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

Financial guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the community development department or public works department by the responsible party to ensure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

Governing body means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

Highway has the meaning given in Wis. Stats. § 340.01(22).

Highway reconditioning has the meaning given in Wis. Stats. § 84.013(1)(b).

Highway reconstruction has the meaning given in Wis. Stats. § 84.013(1)(c).

Highway resurfacing has the meaning given in Wis. Stats. § 84.013(1)(d).

Impervious surface means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.



**Infill area** means a new development area less than five acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or manmade features where development cannot occur.

**Infiltration** means the entry of precipitation or runoff into or through the soil.

**Infiltration system** means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

**Karst feature** means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

**Land disturbing construction activity or disturbance** means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. The term "land disturbing construction activity" includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

**Maintenance agreement** means a legal document that provides for longterm maintenance of stormwater management and best management practices.

**Maximum extent practicable (MEP)** means ~~a level of implementing best management practices in order to achieve a performance standard specified in this article which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.~~ the highest level of performance that is achievable but is not equivalent to a performance standard identified in the ordinance as determined in accordance with Sec. 34-922 of this ordinance.

**Minor reconstruction of a highway** means reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening.

**New development** means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the predevelopment condition is classified as new development. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

**Offsite** means located outside the property boundary described in the permit application.

**On site** means located within the property boundary described in the permit application.

**Ordinary high-water mark** has the meaning given in Wis. Admin. Code § NR 115.03(6).

**Outstanding resource waters** means waters listed in Wis. Admin. Code § NR 102.10.

**NRCS MSE4 distribution** means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.

**Percent fines** means the percentage of a given sample of soil, which passes through a No. 200 sieve.

**Performance standard** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.



Permit means a written authorization made by the community development department or public works department to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Permit administration fee means a sum of money paid to the community development department or public works department by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

Pervious surface means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant has the meaning given in Wis. Stats. § 283.01(13).

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Post-construction site means a construction site created after the adoption of this article, following the completion of land disturbing construction activity and final site stabilization, and only those preexisting construction sites where the village has required construction of a stormwater management facilities including but not limited to a detention or retention basin as a condition of site plan approval, issuance of building permits, or other development.

Post-development means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.

Predevelopment means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Preventive action limit has the meaning given in Wis. Admin. Code § NR 140.05(17).

Redevelopment means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the predevelopment condition is classified as redevelopment. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

Responsible party means any person or entity holding fee title to property, or other person contracted or obligated by other agreement to implement and/or maintain post-construction stormwater BMPs, involving a post-construction site.

Routine maintenance means that portion of a post-construction site where predevelopment impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower one-half of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower one-half of the granular base associated with the predevelopment impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not part of a combined sewer system.
- (3) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

Stop work order means an order issued by the community development department or public works department which requires that all construction activity on the site be stopped.

Stormwater management plan means a comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has undergone final stabilization following completion of the construction activity.

Stormwater management system plan means a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Top of the channel means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

Total maximum daily load" or "TMDL" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

TP-40 means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

TR-55 means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

Transportation facility means a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under Wis. Stats. § 85.095(1)(b).

Type II distribution means a rainfall type curve as established in the United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973. The Type II curve is applicable to all of the state and represents the most intense storm pattern.

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

(Code 2006, § 15-5-23; Ord. No. 17(Ser. of 2007), § 5, 12-19-2007)

#### Sec. 34-922. – Applicability of Maximum Extent Practicable

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

#### Sec. 34-923. - Fee schedule.

The fees referred to in other sections of this article shall be established by the village board and may from time to time be modified by resolution. A schedule of the fees established by the village board shall be available for review in the community development department or public works department.

(Ord. No. 17(Ser. of 2007), § 12, 12-19-2007)

~~Secs. 34-924—34-947. - Reserved.~~

## DIVISION 2. - STANDARDS

### Sec. 34-948. - Technical standards.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling/vehicle maintenance components of stormwater practices needed to meet the water quality standards of this article:

- (1) Technical standards identified, developed or disseminated by the state department of natural resources under Wis. Admin. Code ch. NR 151, subch. V.
- (2) Technical standards and guidance identified within the stormwater reference guide.
- (3) Where technical standards have not been identified or developed by the state department of natural resources, other technical standards may be used provided that the methods have been approved by the community development department or public works department.

~~(4) In this article, the following year and location has been selected as average annual rainfall in Green Bay, Wisconsin, between March 29 and November 25, 1969.~~

(Code 2006, § 15-5-25; Ord. No. 17(Ser. of 2007), § 6, 12-19-2007)

### Sec. 34-949. - Performance standards.

- (a) Responsible party - The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.
- (b) Plan - A written stormwater management plan in accordance with section 34-1000 shall be developed and implemented for each post-construction site.
- ~~(c) Maintenance of effort - For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.~~
- (d) Requirements - The stormwater management plan shall meet the following minimum requirements to the maximum extent practicable.
  - (1) Total suspended solids - BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows. The total suspended solids reduction shall be based on the average annual rainfall, as compared to no runoff management controls.
    - ~~a. For post-construction sites with 20,000 square feet or more of impervious surface disturbance post-construction sites with one acre or more of total land disturbance, the following is required:~~

For post-construction sites whereupon one acre or more of land disturbing construction activity occurs during construction; or post-construction sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces, the following are required:

1. Reduce the total suspended solids load by 80 percent for new development.
  2. Reduce the total suspended solids load by 40 percent for redevelopment.
  3. Reduce the total suspended solids load by 80 percent for in-fill development.
  4. No total suspended solids load reduction is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed water quality BMP.
- b. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce the total suspended solids load using BMPs from the stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
  - c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces are required to satisfy the performance standards within subsection (d)(1)a of this section.
  - d. The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
  - e. Notwithstanding subsection (d)(1)a—d of this section, if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.
  - f. Off-Site Drainage - When designing BMP's, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.
- (2) Peak discharge - BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site as follows:
- a. ~~For post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with one acre or more of land disturbance, the following is required:~~  
  
For post-construction sites whereupon one acre or more of land disturbing construction activity occurs during construction; or post-construction sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces, the following are required:
    1. The peak post-development discharge rate shall not exceed the peak predevelopment discharge rate for the one-year, two-year, ten-year, and 100-year, 24-hour design storms. These peak discharge requirements apply to new development and redevelopment areas. No peak discharge control is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed peak flow control facility.
    2. ~~TR-55 methodology shall be used for peak discharge calculations, unless the administering authority approves an equivalent methodology.~~ Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE4 precipitation distribution. ~~The meaning of the term "hydrologic soil group" and "runoff curve number" are as determined in TR-55.~~ Peak predevelopment discharge rates shall be determined using the following meadow grassland runoff curve numbers:

Maximum Predevelopment Runoff Curve Numbers — Meadow Grassland				
Hydrologic soil group	A	B	C	D
Runoff curve number	39	52	71	78

On a case-by-case basis, the community development department or public works department may allow the use of TP-40 precipitation depths and the Type II distribution.

- b. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce peak post-development discharge rates using BMPs from the stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
  - c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces of this article are required to satisfy the performance standards within subsection (d)(2)a of this section.
  - d. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
  - e. An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of nonerosive discharge velocities and reasonable downstream conveyance.
  - f. Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of this subsection; provided the transportation facility is not part of a larger common plan of development or sale:
    1. A transportation facility where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving surface water by more than 0.01 of a foot for the two-year, 24-hour storm event.
    2. A highway reconstruction site.
    3. A transportation facility that is part of a redevelopment project.
- (3) Infiltration - BMPs shall be designed, installed, and maintained to infiltrate runoff for post-construction sites whereupon one acre or more of land disturbing construction activity occurs during construction; or post-construction sites whereupon 20,000 square feet or greater of existing impervious surfaces are disturbed during construction activities in accordance with the following or to the maximum extent practicable, except as provided in subsection (d)(3)i—k of this section.
- a. ~~For residential developments with 20,000 square feet or more of impervious surface disturbance and residential developments with one acre or more of land disturbance, one of the following shall be met:~~
    1. ~~Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the predevelopment infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.~~

2. ~~Infiltrate 25 percent of the post-development runoff from the two-year 24-hour design storm with a type-II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.~~
- b. ~~For nonresidential developments with 20,000 square feet or more of impervious surface disturbance and nonresidential developments with one acre or more of land disturbance, including commercial, industrial and institutional development, one of the following shall be met:~~
    1. ~~Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the predevelopment infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.~~
    2. ~~Infiltrate ten percent of the runoff from the two-year 24-hour design storm with a type-II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.~~
  - a. Low imperviousness. For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post development infiltration volume shall be at least 90 percent of the predevelopment infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.
  - b. Moderate imperviousness. For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post construction site is required as an effective infiltration area.
  - c. High imperviousness. For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
  - d. Predevelopment condition shall assume good hydrologic conditions for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of the terms "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when predevelopment land cover is cropland, rather than using TR-55 values for cropland, the following runoff curve numbers shall be used:

<b>Maximum Predevelopment Runoff Curve Numbers - Cropland</b>
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Hydrologic soil group	A	B	C	D
Runoff curve number	<del>54</del> 55	<del>70</del> 69	<del>79</del> 78	83

- e. For residential and nonresidential developments with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
- f. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces of this article are required to satisfy the performance standards within subsection (d)(3)a—d of this section.
- g. The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- h. ~~Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection (d)(3)m of this section. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips. Pretreatment.~~ Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection (d)(3)m. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- i. Exclusions - Infiltration of runoff from the following areas are prohibited from meeting the infiltration requirements of this subsection (d)(3):
  1. Areas associated with tier 1 industrial facilities identified in Wis. Admin. Code § NR 216.21(2)(a), including storage, loading, rooftop and parking.
  2. Storage and loading areas of tier 2 industrial facilities identified in Wis. Admin. Code § NR 216.21(2)(b).
  3. Fueling and vehicle maintenance areas.
  4. Areas within 1,000 feet up gradient or within 100 feet downgradient of karst features.
  5. Areas with less than three feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subsection (d)(3)i.5 does not prohibit infiltration of roof runoff.
  6. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
  7. Areas within 400 feet of a community water system well as specified in Wis. Admin. Code § NR 811.16(4), or within 100 feet of a private well as specified in Wis. Admin. Code § NR 812.08(4), for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

8. Areas where contaminants of concern, as defined in Wis. Admin. Code § NR 720.03(2) are present in the soil through which infiltration will occur.
  9. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three-foot soil layer with 20 percent fines or greater; or at least a five-foot soil layer with ten percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subsection (d)(3).9 does not prohibit infiltration of roof runoff.
- j. Exemptions - Infiltration of runoff from the following areas are not required to meet the infiltration requirements of this subsection (d)(3):
1. Areas where the infiltration rate of the soil is less than 0.6 inches per hour measured at the site.
  2. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. department of agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
  3. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
  4. Redevelopment and routine maintenance areas.
  5. Infill areas less than five acres.
  6. Infiltration areas during periods when the soil on the site is frozen.
  7. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
  8. Highways provided the transportation facility is not part of a larger common plan of development or sale.
- k. Separation Distances
1. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

Table 3. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer



2. Notwithstanding par. B., applicable requirements for injection wells classified under ch. NR 815 shall be followed.

l. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this subsection (d)(3).

m. Infiltration systems designed in accordance with this subsection (d)(3) shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Wis. Admin. Code ch. NR 140.

1. If site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. Notwithstanding subsection (d)(3)m.1 of this section, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(4) Protective areas.

a. The term "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.

1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code § NR 103.04, a width of 75 feet.

2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, a width of 50 feet.

3. For lakes, a width of 50 feet.

4. For wetlands not subject to par. 5. or 6., 50 feet.

5. For highly susceptible wetlands, a width of 50 75 feet. Highly susceptible wetlands include the following types:

(i) Calcareous fens;

(ii) Sedge meadows;

(iii) Open and coniferous bogs;

(iv) Low prairies;

(v) Coniferous swamps;

(vi) Lowland hardwood swamps;

(vii) Ephemeral ponds. Other forested wetlands;

~~(viii) Fresh wet meadows;~~

~~(ix) Shallow marshes;~~

~~(x) Deep marshes; and~~

~~(xi) Seasonally flooded basins.~~

6. For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric

soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

7. In subsections (c)(4)a.1, 4, 5 and 6 of this section, determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Wis. Admin. Code § NR 103.03.
8. For concentrated flow channels with drainage areas greater than 130 acres, a width of ten feet.
9. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.

However, in this subsection, the term "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

- b. Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with Wis. Admin. Code § NR 103.08(1m). This subsection (d)(4) does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
- c. This subsection (d)(4) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection (d)(4)f of this section.
- d. The following requirements shall be met:
  1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
  2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Nonvegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
  3. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from nonpoint sources may be located in the protective area.
- e. A protective area established or created by this article shall not be eliminated or reduced, except as allowed in subsections (d)(4)f.2, 3, or 4 or 5 of this section.
- f. Exemptions - The following areas are not required to meet the protective area requirements of this subsection (d)(4):
  1. Redevelopment and routine maintenance areas; provided the minimum requirements in subsection (d)(4)e of this section are satisfied.
  2. In-fill development areas less than 5 acres.
  3. Structures that cross or access surface waters such as boat landings, bridges and culverts.
  4. Structures constructed in accordance with Wis. Stats. § 59.692(1v).

- (5) Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.
- (6) Swale treatment for transportation facilities. This subsection is not applicable to transportation facilities that are part of a larger common plan of development or sale.
- a. Applicability. Except as provided in subsection (d)(6)b of this section, transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
1. Be vegetated. However, where appropriate, nonvegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
  2. ~~Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a two-year, 24-hour design storm or a two-year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.~~ Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Swale Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Infiltration Swales", dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.
- b. Exemptions - The community development department or public works department may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:
1. An outstanding resource water.
  2. An exceptional resource water.
  3. Waters listed in section 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.
  4. Waters where targeted performance standards are developed under Wis. Admin. Code § NR 151.004, to meet water quality standards.
- (7) Exemptions - The following areas are not required to meet the performance standards within subsection (d) of this section:
- a. Agricultural production areas with less than 100,000 square feet of impervious surface disturbance.
- b. Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
- c. The following transportation facilities are exempt; provided the transportation facility is not part of a larger common plan of development or sale:
1. Reconditioning or resurfacing of a highway.
  2. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within Wis. Admin. Code § NR 151.24(6) apply to minor reconstruction of a highway.

3. A redevelopment transportation facility with no increase in exposed parking lots or roads.
  4. A transportation facility with less than ten percent connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre.
  5. Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (e) General considerations for on-site and off-site stormwater management measures. The following considerations shall be observed in managing runoff:
- (1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
  - (2) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (f) Location and regional treatment option.
- (1) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system.
  - (2) Post-construction runoff within a nonnavigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this article. Post-construction BMPs may be located in nonnavigable surface waters.
  - (3) Except as allowed under subsection (f)(4) of this section, post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
  - (4) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this article if:
    - a. The BMP was constructed prior to the effective date of this article and the BMP either received a permit issued under Wis. Stats. ch. 30, or the BMP did not require a Wis. Stats. ch. 30, permit; and
    - b. The BMP is designed to provide runoff treatment from future upland development.
  - (5) Runoff from existing development, redevelopment and infill areas shall meet the post-construction performance standards in accordance with this subsection.
    - a. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
    - b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as Wis. Admin. Code ch. NR 103 and Wis. Stats. ch. 30.
  - (6) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this article.
  - (7) **BMP Location** - The community development department or public works department may approve off-site management measures as part of a regional storm water device, practice or system, provided that all of the following conditions are met:
    - a. **BMPs are installed in accordance with s. NR 151.003, Wis. Adm. Code.**
    - b. The community development department or public works department determines that the post-construction runoff is covered by a stormwater management system plan that is

approved by the village and that contains management requirements consistent with the purpose and intent of this article.

**c. The off-site facility meets all of the following conditions:**

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

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

(g) Alternate requirements - The community development department or public works department may establish stormwater management requirements more stringent than those set forth in this section if the community development department or public works department determines that an added level of protection is needed to protect sensitive resources. Also, the community development department or public works department may establish stormwater management requirements less stringent than those set forth in this section if the community development department or public works department determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by state department of natural resources under Wis. Admin. Code ch. NR 151.

(Code 2006, § 15-5-25; Ord. No. 17(Ser. of 2007), § 7, 12-19-2007)

Secs. 34-950—34-971. - Reserved.

**DIVISION 3. - PERMITTING REQUIREMENTS, PROCEDURES AND FEES**

Sec. 34-972. - Permit required.

- (a) No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the community development department or public works department prior to commencing the proposed activity.
- (b) All responsible parties who have undertaken a land disturbing construction activity at a post-construction site without previously receiving a post-construction runoff permit who have constructed detention and/or retention basins under direction of the village as a condition for development shall obtain a post-construction runoff permit for future management and maintenance, meeting all other requirements hereunder, from the community development department or public works departments, within one year from the effective date of this article.

(Code 2006, § 15-5-26; Ord. No. 17(Ser. of 2007), § 8(1), 12-19-2007)

**Sec. 34-973. - Permit application and fees.**

Unless specifically excluded by this article, any responsible party desiring, or otherwise required to obtain, a permit shall submit to the community development department or public works department a permit application made on a form provided by the community development department or public works department for that purpose.

- (1) Unless otherwise excepted by this article, a permit application must be accompanied by a stormwater management plan, a maintenance agreement, a proposed financial guarantee, and a nonrefundable permit administration fee.
- (2) The stormwater management plan shall be prepared to meet the requirements of sections 34-949 and 34-1000, the maintenance agreement shall be prepared to meet the requirements of section 34-1001, the financial guarantee shall meet the requirements of division 5 of this article, and fees shall be those established by the village board as set forth in section 34-922.

(Ord. No. 17(Ser. of 2007), § 8(2), 12-19-2007)

**Sec. 34-974. - Review and approval of permit application.**

The community development department or public works department shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

- (1) Within 20 business days of the receipt of a complete permit application, including all items as required by section 34-973, the community development department or public works department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this article.
- (2) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the community development department or public works department shall issue the permit.
- (3) If the stormwater permit application, plan or maintenance agreement is disapproved, the community development department or public works department shall detail, in writing, the reasons for disapproval.
- (4) The community development department or public works department may request additional information from the applicant. If additional information is submitted, the community development department or public works department shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (5) Failure by the community development department or public works department to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(Code 2006, § 15-5-26; Ord. No. 17(Ser. of 2007), § 8(3), 12-19-2007)

**Sec. 34-975. - Permit requirements.**

All permits issued under this article shall be subject to the following conditions, and holders of permits issued under this article shall be deemed to have accepted these conditions. The community development department or public works department may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the community



development department or public works department to suspend or revoke this permit may be appealed in accordance with section 34-1066.

- (1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (2) The responsible party shall design and install all structural and nonstructural stormwater management measures in accordance with the approved stormwater management plan and this permit.
- (3) The responsible party shall notify the community development department or public works department at least ten business days before commencing any work in conjunction with the stormwater management plan, and within ten business days upon completion of the stormwater management practices. If required as a special condition under section 34-976, the responsible party shall make additional notification according to a schedule set forth by the community development department or public works department so that practice installations can be inspected during construction.
- (4) Practice installations required as part of this article shall be certified as built by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the community development department or public works department or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The community development department or public works department or its designee shall notify the responsible party, in writing, of any changes required in such practices to bring them into compliance with the conditions of this permit.
- (5) The responsible party shall notify the community development department or public works department of any significant modifications it intends to make to an approved stormwater management plan. The community development department or public works department may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the responsible party.
- (6) The responsible party shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the village board, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (7) The responsible party authorizes the community development department or public works department to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. ch. 66, subch. VII, or to charging such costs against the financial guarantee posted under division 5 of this article.
- (8) If so directed by the community development department or public works department, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainageways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
- (9) The responsible party shall permit property access to the community development department or public works department or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- (10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the community development department or public works department may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (11) The responsible party is subject to the enforcement actions and penalties detailed in section 34-1065, if the responsible party fails to comply with the terms of this permit.

- (12) The permit applicant shall post the certificate of permit coverage in a conspicuous location at the construction site.

(Ord. No. 17(Ser. of 2007), § 8(4), 12-19-2007)

**Sec. 34-976. - Permit conditions.**

Permits issued under this subsection may include conditions established by the community development department or public works department in addition to the requirements needed to meet the performance standards in section 34-949 or a financial guarantee as provided for in division 5 of this article.

(Ord. No. 17(Ser. of 2007), § 8(5), 12-19-2007)

**Sec. 34-977. - Permit duration.**

Permits issued under this section shall be valid from the date of issuance through the date the community development department or public works department notifies the responsible party that all stormwater management practices have passed the final inspection required under section 34-975(4).

(Ord. No. 17(Ser. of 2007), § 8(6), 12-19-2007)

**Sec. 34-978. - Alternate requirements.**

The community development department or public works department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 34-949(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(Ord. No. 17(Ser. of 2007), § 8(7), 12-19-2007)

**Secs. 34-979—34-999. - Reserved.**

**DIVISION 4. - STORMWATER MANAGEMENT PLAN AND MAINTENANCE AGREEMENT**

**Sec. 34-1000. - Required.**

- (a) Plan requirements. The stormwater management plan required under section 34-973 shall comply with the stormwater reference guide and contain at a minimum the following information:
- (1) Name, address, and telephone number ~~of the landowner and responsible parties~~ for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
  - (2) A legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
  - (3) Predevelopment site ~~map with property lines, disturbed limits, and drainage patterns~~ conditions, including:



- a. One or more site maps at a scale of not less than 1 inch equals [number] feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 40 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.
  - b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- (4) **Post-development site** ~~map with property lines, disturbed limits, and drainage patterns, conditions, including:~~
- ~~a. Total area of disturbed impervious surfaces within the site.~~
  - ~~b. Total area of new impervious surfaces within the site.~~
  - ~~c. Performance standards applicable to site.~~
  - ~~d. Proposed best management practices.~~
  - ~~e. Groundwater, bedrock, and soil limitations.~~
  - ~~f. Separation distances. Stormwater management practices shall be adequately separated from wells to prevent contamination of drinking water.~~
  - a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
  - b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
  - c. One or more site maps at a scale of not less than 1 inch equals 40 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 40 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and offsite tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
  - d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

- e. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
- (5) A description and installation schedule for the storm water management practices needed to meet the performance standards in section 34-949.
- (6) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
- (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
- (h) Other information requested in writing by the community development department or public works department to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
- (i) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (b) Alternate requirements - The community development department or public works department may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 34-949(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(Ord. No. 17(Ser. of 2007), § 9, 12-19-2007)

**Sec. 34-1001. - Maintenance agreement.**

- (a) Required. The maintenance agreement required under section 34-973 for stormwater management practices shall be an agreement between the community development department or public works department and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement shall be filed with the county register of deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.
- (b) Agreement provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by section 34-949:
  - (1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
  - (2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under section 34-973.
  - (3) Identification of the responsible party, organization or city, county, town or village responsible for longterm maintenance of the stormwater management practices identified in the stormwater management plan required under section 34-973.
  - (4) Requirement that the responsible party, organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in subsection (b)(2) of this section.
  - (5) Authorization for the community development department or public works department to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

- (6) A requirement on the community development department or public works department to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
  - (7) Agreement that the party designated under subsection (b)(3) of this section, as responsible for longterm maintenance of the stormwater management practices, shall be notified by the community development department or public works department of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the community development department or public works department.
  - (8) Authorization of the community development department or public works department to perform the corrected actions identified in the inspection report if the responsible party designated under subsection (b)(3) of this section does not make the required corrections in the specified time period. The community development department or public works department shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. ch. 66, subch. VII.
- (c) Alternate requirements. The community development department or public works department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 34-949(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(Ord. No. 17(Ser. of 2007), § 10, 12-19-2007)

Secs. 34-1002—34-1030. - Reserved.

#### DIVISION 5. - FINANCIAL GUARANTEE

Sec. 34-1031. - Establishment of the guarantee.

The community development department or public works department may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the community development department or public works department. The financial guarantee shall be in an amount determined by the community development department or public works department to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the community development department or public works department the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the community development department or public works department that the requirements of this article have not been met.

(Ord. No. 17(Ser. of 2007), § 11(1), 12-19-2007)

Sec. 34-1032. - Conditions for release.

Conditions for the release of the financial guarantee are as follows:

- (1) The community development department or public works department shall release the portion of the financial guarantee established under this section, less any costs incurred by the community development department or public works department to complete installation of practices, upon

submission of as-built plans by a licensed professional engineer. The community development department or public works department may make provisions for a partial pro rata release of the financial guarantee based on the completion of various development stages.

- (2) The community development department or public works department shall release the portion of the financial guarantee established under this section to ensure maintenance of stormwater practices, less any costs incurred by the community development department or public works department, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(Ord. No. 17(Ser. of 2007), § 11(2), 12-19-2007)

**Sec. 34-1033. - Alternate requirements.**

The community development department or public works department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 34-949(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(Ord. No. 17(Ser. of 2007), § 11(3), 12-19-2007)

**Secs. 34-1034—34-1064. - Reserved.**

**DIVISION 6. - ENFORCEMENT AND APPEALS**

**Sec. 34-1065. - Procedure.**

- (a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of the ordinance from which this article is derived by any person, firm, association, or corporation subject to the article provisions shall be deemed a violation unless conducted in accordance with the requirements of this article.
- (b) The community development department or public works department shall notify the responsible party by certified mail of any noncomplying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (c) Upon receipt of written notification from the community development department or public works department under subsection (b) of this section, the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the community development department or public works department in the notice.
- (d) If the violations to a permit issued pursuant to this article are likely to result in damage to properties, public facilities, or waters of the state, the community development department or public works department may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the community development department or public works department plus interest and legal costs shall be billed to the responsible party.
- (e) The community development department or public works department is authorized to post a stop work order on all land disturbing construction activity that is in violation of this article, or to request the village attorney to obtain a cease and desist order in any court with jurisdiction.

- (f) The community development department or public works department may revoke a permit issued under this article for noncompliance with ordinance provisions.
- (g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the community development department or public works department or by a court with jurisdiction.
- (h) The community development department or public works department is authorized to refer any violation of this article, or of a stop work order or cease and desist order issued pursuant to this article, to the village attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (i) Any person, firm, association, or corporation who does not comply with the provisions of this article shall be subject to a forfeiture of not less than \$25.00 or more than \$500.00 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (j) Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (k) When the community development department or public works department determines that the holder of a permit issued pursuant to this article has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the community development department or public works department or a party designated by the community development department or public works department may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The community development department or public works department shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to division 5 of this article. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

(Ord. No. 17(Ser. of 2007), § 13, 12-19-2007)

#### Sec. 34-1066. - Board of appeals.

- (a) Authorization. The board of appeals, created pursuant to section 2-149 and Wis. Stats. § 61.354(4)(b), shall hear and decide appeals where it is alleged that there is an error in any order, decision or determination made by the community development department or public works department in administering this article. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this article that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the article will result in unnecessary hardship.
- (b) Who may appeal. Appeals to the board of appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the village affected by any decision of the community development department or public works department.

(Ord. No. 17(Ser. of 2007), § 14, 12-19-2007)

#### Sec. 34-1067. - Severability.

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

## ARTICLE IX. - POST CONSTRUCTION STORMWATER MANAGEMENT (w/ TMDL)

### DIVISION 1. - GENERALLY

#### Sec. 34-917. - Authority.

- (a) This article is adopted by the village board under the authority granted by Wis. Stats. § 61.354. This article supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 61.35, that relate to stormwater management regulations. Except as otherwise specified in Wis. Stats. § 61.354, Wis. Stats. § 61.35 applies to this article and to any amendments to this article.
- (b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the same governing body.
- (c) The village board hereby designates the community development department and public works department to administer and enforce the provisions of this article.
- (d) The requirements of this article do not preempt more stringent stormwater management requirements that may be imposed by any of the following:
  - (1) State department of natural resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
  - (2) Targeted nonagricultural performance standards promulgated in rules by the state department of natural resources under Wis. Admin. Code § NR 151.004.

(Code 2006, § 15-5-20; Ord. No. 17(Ser. of 2007), § 1, 12-19-2007)

#### Sec. 34-918. - Findings of fact.

The village board finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loading.
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

(Code 2006, § 15-5-21(a); Ord. No. 17(Ser. of 2007), § 2, 12-19-2007)

#### Sec. 34-919. - Purpose and intent.



- (a) Purpose - The general purpose of this article is to establish long term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
  - (1) Further the maintenance of safe and healthful conditions.
  - (2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
  - (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (b) Intent - It is the intent of the village board that this article regulates post-construction stormwater discharges to waters of the state. This article may be applied on a site-by-site basis. The village board recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this article is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stats. § 281.16, for regional stormwater management measures and have been approved by the village board, it is the intent of this article that the approved plan be used to identify post-construction management measures acceptable for the community.

(Code 2006, § 15-5-21(b); Ord. No. 17(Ser. of 2007), § 3, 12-19-2007)

Sec. 34-920. - Applicability; jurisdiction; exclusions.

- (a) Applicability.
  - (1) Where not otherwise limited by law, this article applies to all post-construction sites, unless the site is otherwise exempt under subsection (b) of this section. Post construction sites include those sites preexisting the adoption of the ordinance from which this article is derived and those sites completed following of the adoption of the ordinance from which this article is derived.
  - (2) A post-construction site that meets any of the criteria in this subsection is exempt from the requirements of this article.
    - a. One-family and two-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one acre of disturbance.
    - b. Nonpoint discharges from agricultural activity areas.
    - c. Nonpoint discharges from silviculture activities.
    - d. Mill and crush operations.
  - (3) Notwithstanding the applicability requirements in this subsection, this article applies to post-construction sites of any size that, in the opinion of the community development department or public works department, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (b) Jurisdiction - This article applies to post construction sites within the boundaries and jurisdiction of the village. Post construction sites include those sites preexisting the adoption of the ordinance from

which this article is derived and those sites completed following the adoption of the ordinance from which this article is derived.

- (c) Exclusions - This article is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2).

(Code 2006, §§ 15-5-22, 15-5-24; Ord. No. 17(Ser. of 2007), § 4, 12-19-2007)

#### Sec. 34-921. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administering authority means a governmental employee, or a regional planning commission empowered under Wis. Stats. § 61.354, that is designated by the village board to administer this article.

Agricultural activity area means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The term "agricultural activity area" does not include the agricultural production area.

Agricultural production area means the part of the farm where there is concentrated production activity or impervious surfaces. The term "agricultural production areas" include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The term "agricultural production area" does not include the agricultural activity area.

Atlas 14 means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.

Average annual rainfall means a calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. For purposes of this article, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

Best management practice (BMP) means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the community development department or public works department is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Combined sewer system means a system for conveying both sanitary sewage and stormwater runoff.

Common plan of development or sale means a development or sale where multiple, separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. The term "common plan of development or sale" includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

Connected imperviousness means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

Construction site means an area upon which one or more land disturbing construction activities occur, or have occurred, including areas that are part of a larger common plan of development or sale.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The Natural Resources

Conservation Service (NRCS) calculated Outagamie County Atlas 14 precipitation depths for the Midwest/Southeast (MSE) 4 precipitation distribution for the village are:

- (1) One-year, 2.14 inches;
- (2) Two-year, 2.45 inches;
- (3) Five-year, 3.01 inches;
- (4) Ten-year, 3.51 inches;
- (5) Twenty five-year, 4.24 inches;
- (6) Fifty-year, 4.85 inches; and
- (7) One hundred-year, 5.5 inches.

Development means residential, commercial, industrial, institutional, or other land uses and associated roads.

Division of land means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a five-year period.

Effective infiltration area means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Exceptional resource waters means waters listed in Wis. Admin. Code § NR 102.11.

Extraterritorial means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Filtering layer means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

Financial guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the community development department or public works department by the responsible party to ensure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

Governing body means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

Highway has the meaning given in Wis. Stats. § 340.01(22).

Highway reconditioning has the meaning given in Wis. Stats. § 84.013(1)(b).

Highway reconstruction has the meaning given in Wis. Stats. § 84.013(1)(c).

Highway resurfacing has the meaning given in Wis. Stats. § 84.013(1)(d).

Impervious surface means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.

**Infill area** means a new development area less than five acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or manmade features where development cannot occur.

**Infiltration** means the entry of precipitation or runoff into or through the soil.

**Infiltration system** means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

**Karst feature** means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

**Land disturbing construction activity or disturbance** means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. The term "land disturbing construction activity" includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

**Maintenance agreement** means a legal document that provides for longterm maintenance of stormwater management and best management practices.

**Maximum extent practicable (MEP)** means the highest level of performance that is achievable but is not equivalent to a performance standard identified in the ordinance as determined in accordance with Sec. 34-922 of this ordinance.

**Minor reconstruction of a highway** means reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening.

**New development** means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the predevelopment condition is classified as new development. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

**Offsite** means located outside the property boundary described in the permit application.

**On site** means located within the property boundary described in the permit application.

**Ordinary high-water mark** has the meaning given in Wis. Admin. Code § NR 115.03(6).

**Outstanding resource waters** means waters listed in Wis. Admin. Code § NR 102.10.

**NRCS MSE4 distribution** means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.

**Percent fines** means the percentage of a given sample of soil, which passes through a No. 200 sieve.

**Performance standard** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**Permit** means a written authorization made by the community development department or public works department to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

**Permit administration fee** means a sum of money paid to the community development department or public works department by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

Pervious surface means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant has the meaning given in Wis. Stats. § 283.01(13).

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Post-construction site means a construction site created after the adoption of this article, following the completion of land disturbing construction activity and final site stabilization, and only those preexisting construction sites where the village has required construction of a stormwater management facilities including but not limited to a detention or retention basin as a condition of site plan approval, issuance of building permits, or other development.

Post-development means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.

Predevelopment means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Preventive action limit has the meaning given in Wis. Admin. Code § NR 140.05(17).

Redevelopment means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the predevelopment condition is classified as redevelopment. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

Responsible party means any person or entity holding fee title to property, or other person contracted or obligated by other agreement to implement and/or maintain post-construction stormwater BMPs, involving a post-construction site.

Routine maintenance means that portion of a post-construction site where predevelopment impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower one-half of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower one-half of the granular base associated with the predevelopment impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not part of a combined sewer system.
- (3) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

Stop work order means an order issued by the community development department or public works department which requires that all construction activity on the site be stopped.

Stormwater management plan means a comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has undergone final stabilization following completion of the construction activity.

Stormwater management system plan means a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Top of the channel means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

Total maximum daily load" or "TMDL" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

TP-40 means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

TR-55 means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

Transportation facility means a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under Wis. Stats. § 85.095(1)(b).

Type II distribution means a rainfall type curve as established in the United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973. The Type II curve is applicable to all of the state and represents the most intense storm pattern.

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

(Code 2006, § 15-5-23; Ord. No. 17(Ser. of 2007), § 5, 12-19-2007)

#### Sec. 34-922. – Applicability of Maximum Extent Practicable

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

#### Sec. 34-923. - Fee schedule.

The fees referred to in other sections of this article shall be established by the village board and may from time to time be modified by resolution. A schedule of the fees established by the village board shall be available for review in the community development department or public works department.

(Ord. No. 17(Ser. of 2007), § 12, 12-19-2007)

Secs. 34-924—34-947. - Reserved.

#### DIVISION 2. - STANDARDS

Sec. 34-948. - Technical standards.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling/vehicle maintenance components of stormwater practices needed to meet the water quality standards of this article:

- (1) Technical standards identified, developed or disseminated by the state department of natural resources under Wis. Admin. Code ch. NR 151, subch. V.
- (2) Technical standards and guidance identified within the stormwater reference guide.
- (3) Where technical standards have not been identified or developed by the state department of natural resources, other technical standards may be used provided that the methods have been approved by the community development department or public works department.

(Code 2006, § 15-5-25; Ord. No. 17(Ser. of 2007), § 6, 12-19-2007)

Sec. 34-949. - Performance standards.

- (a) Responsible party - The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.
- (b) Plan - A written stormwater management plan in accordance with section 34-1000 shall be developed and implemented for each post-construction site.
- (c) Maintenance of effort - For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.
- (d) Requirements - The stormwater management plan shall meet the following minimum requirements to the maximum extent practicable.
  - (1) Total suspended solids - BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows. The total suspended solids reduction shall be based on the average annual rainfall, as compared to no runoff management controls.
    - a. For post-construction sites whereupon one acre or more of land disturbing construction activity occurs during construction; or post-construction sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces, the following are required:

1. Except as provided in Subsection (d)(1)a 2., a total suspended solids (TSS) and total phosphorus (TP) load reduction is required as follows:

Watershed	Total Suspended Solids (TSS) & Total Phosphorus (TP) Reduction					
	New Development		Redevelopment		Routine Maintenance	
	TSS	TP	TSS	TP	TSS	TP
Apple Creek TMDL	80%	41%	52%	41%	52%	41%
Fox River TMDL	80%	41%	72%	41%	72%	41%

2. A pollutant reduction is not required for routine maintenance areas that are part of a post-construction site with less than 5 acres of disturbance.



- b. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce the TSS and TP loading using BMP's from the Technical Reference Guide. These sites are not required to satisfy numeric performance standard but are required to be designed to maximize the removal of these pollutants.
  - c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces are required to satisfy the performance standards within subsection (d)(1)a.1. of this section.
  - d. The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
  - e. Notwithstanding subsection (d)(1)a—d of this section, if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.
  - f. Off-Site Drainage - When designing BMP's, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.
- (2) Peak discharge - BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site as follows:
- a. For post-construction sites whereupon one acre or more of land disturbing construction activity occurs during construction; or post-construction sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces, the following are required:
    - 1. The peak post-development discharge rate shall not exceed the peak predevelopment discharge rate for the one-year, two-year, ten-year, and 100-year, 24-hour design storms. These peak discharge requirements apply to new development and redevelopment areas. No peak discharge control is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed peak flow control facility.
    - 2. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE4 precipitation distribution. Peak predevelopment discharge rates shall be determined using the following grassland runoff curve numbers:

Maximum Predevelopment Runoff Curve Numbers —Grassland				
Hydrologic soil group	A	B	C	D
Runoff curve number	39	61	71	78

On a case-by-case basis, the community development department or public works department may allow the use of TP-40 precipitation depths and the Type II distribution.

- b. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce peak post-development discharge rates using BMPs from the stormwater reference guide. These sites are not required to satisfy a numeric performance standard.

- c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces of this article are required to satisfy the performance standards within subsection (d)(2)a of this section.
  - d. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
  - e. An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of nonerosive discharge velocities and reasonable downstream conveyance.
  - f. Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of this subsection; provided the transportation facility is not part of a larger common plan of development or sale:
    - 1. A transportation facility where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving surface water by more than 0.01 of a foot for the two-year, 24-hour storm event.
    - 2. A highway reconstruction site.
    - 3. A transportation facility that is part of a redevelopment project.
- (3) Infiltration - BMPs shall be designed, installed, and maintained to infiltrate runoff for post-construction sites whereupon one acre or more of land disturbing construction activity occurs during construction; or post-construction sites whereupon 20,000 square feet or greater of existing impervious surfaces are disturbed during construction activities in accordance with the following or to the maximum extent practicable, except as provided in subsection (d)(3)i—k of this section.
- a. Low imperviousness. For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post development infiltration volume shall be at least 90 percent of the predevelopment infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.
  - b. Moderate imperviousness. For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post construction site is required as an effective infiltration area.
  - c. High imperviousness. For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
  - d. Predevelopment condition shall assume good hydrologic conditions for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of the terms "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when predevelopment land cover is cropland, rather than using TR-55 values for cropland, the following runoff curve numbers shall be used:

Maximum Predevelopment Runoff Curve Numbers - Cropland				
Hydrologic soil group	A	B	C	D
Runoff curve number	55	69	78	83

- e. For residential and nonresidential developments with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the stormwater reference guide. These sites are not required to satisfy a numeric performance standard.
- f. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces of this article are required to satisfy the performance standards within subsection (d)(3)a—d of this section.
- g. The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- h. Pretreatment. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection (d)(3)m. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- i. Exclusions - Infiltration of runoff from the following areas are prohibited from meeting the infiltration requirements of this subsection (d)(3):
  1. Areas associated with tier 1 industrial facilities identified in Wis. Admin. Code § NR 216.21(2)(a), including storage, loading, rooftop and parking.
  2. Storage and loading areas of tier 2 industrial facilities identified in Wis. Admin. Code § NR 216.21(2)(b).
  3. Fueling and vehicle maintenance areas.
  4. Areas within 1,000 feet up gradient or within 100 feet downgradient of karst features.
  5. Areas with less than three feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subsection (d)(3)i.5 does not prohibit infiltration of roof runoff.
  6. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
  7. Areas within 400 feet of a community water system well as specified in Wis. Admin. Code § NR 811.16(4), or within 100 feet of a private well as specified in Wis. Admin. Code § NR 812.08(4), for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
  8. Areas where contaminants of concern, as defined in Wis. Admin. Code § NR 720.03(2) are present in the soil through which infiltration will occur.

9. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three-foot soil layer with 20 percent fines or greater; or at least a five-foot soil layer with ten percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subsection (d)(3)i.9 does not prohibit infiltration of roof runoff.
- j. Exemptions - Infiltration of runoff from the following areas are not required to meet the infiltration requirements of this subsection (d)(3):
  1. Areas where the infiltration rate of the soil is less than 0.6 inches per hour measured at the site.
  2. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. department of agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
  3. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
  4. Redevelopment and routine maintenance areas.
  5. Infill areas less than five acres.
  6. Infiltration areas during periods when the soil on the site is frozen.
  7. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
  8. Highways provided the transportation facility is not part of a larger common plan of development or sale.
- k. Separation Distances
  1. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

<b>Table 3. Separation Distances and Soil Characteristics</b>		
<b>Source Area</b>	<b>Separation Distance</b>	<b>Soil Characteristics</b>
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

2. Notwithstanding par. B., applicable requirements for injection wells classified under ch. NR 815 shall be followed.

- l. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this subsection (d)(3).
  - m. Infiltration systems designed in accordance with this subsection (d)(3) shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Wis. Admin. Code ch. NR 140.
    1. If site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
    2. Notwithstanding subsection (d)(3)m.1 of this section, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- (4) Protective areas.
- a. The term "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.
    1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code § NR 103.04, a width of 75 feet.
    2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, a width of 50 feet.
    3. For lakes, a width of 50 feet.
    4. For wetlands not subject to par. 5. or 6., 50 feet.
    5. For highly susceptible wetlands, a width of ~~50~~ 75 feet. Highly susceptible wetlands include the following types:
      - (i) Calcareous fens;
      - (ii) Sedge meadows;
      - (iii) Open and coniferous bogs;
      - (iv) Low prairies;
      - (v) Coniferous swamps;
      - (vi) Lowland hardwood swamps;
      - (vii) Ephemeral ponds.
    6. For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
    7. In subsections (c)(4)a.1, 4, 5 and 6 of this section, determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Wis. Admin. Code § NR 103.03.
    8. For concentrated flow channels with drainage areas greater than 130 acres, a width of ten feet.

9. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.

However, in this subsection, the term "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

- b. Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with Wis. Admin. Code § NR 103.08(1m). This subsection (d)(4) does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
  - c. This subsection (d)(4) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection (d)(4)f of this section.
  - d. The following requirements shall be met:
    - 1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
    - 2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Nonvegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
    - 3. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from nonpoint sources may be located in the protective area.
  - e. A protective area established or created by this article shall not be eliminated or reduced, except as allowed in subsections (d)(4)f.2, 3, or 4 or 5 of this section.
  - f. Exemptions - The following areas are not required to meet the protective area requirements of this subsection (d)(4):
    - 1. Redevelopment and routine maintenance areas; provided the minimum requirements in subsection (d)(4)e of this section are satisfied.
    - 2. In-fill development areas less than 5 acres.
    - 3. Structures that cross or access surface waters such as boat landings, bridges and culverts.
    - 4. Structures constructed in accordance with Wis. Stats. § 59.692(1v).
- (5) Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.
- (6) Swale treatment for transportation facilities. This subsection is not applicable to transportation facilities that are part of a larger common plan of development or sale.
- a. Applicability. Except as provided in subsection (d)(6)b of this section, transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the

requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

1. Be vegetated. However, where appropriate, nonvegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
  2. Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Slope Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Infiltration Swales", dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.
- b. Exemptions - The community development department or public works department may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:
1. An outstanding resource water.
  2. An exceptional resource water.
  3. Waters listed in section 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.
  4. Waters where targeted performance standards are developed under Wis. Admin. Code § NR 151.004, to meet water quality standards.
- (7) Exemptions - The following areas are not required to meet the performance standards within subsection (d) of this section:
- a. Agricultural production areas with less than 100,000 square feet of impervious surface disturbance.
  - b. Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
  - c. The following transportation facilities are exempt; provided the transportation facility is not part of a larger common plan of development or sale:
    1. Reconditioning or resurfacing of a highway.
    2. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within Wis. Admin. Code § NR 151.24(6) apply to minor reconstruction of a highway.
    3. A redevelopment transportation facility with no increase in exposed parking lots or roads.
    4. A transportation facility with less than ten percent connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre.
    5. Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (e) General considerations for on-site and off-site stormwater management measures. The following considerations shall be observed in managing runoff:
- (1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.



- (2) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (f) Location and regional treatment option.
- (1) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system.
  - (2) Post-construction runoff within a nonnavigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this article. Post-construction BMPs may be located in nonnavigable surface waters.
  - (3) Except as allowed under subsection (f)(4) of this section, post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
  - (4) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this article if:
    - a. The BMP was constructed prior to the effective date of this article and the BMP either received a permit issued under Wis. Stats. ch. 30, or the BMP did not require a Wis. Stats. ch. 30, permit; and
    - b. The BMP is designed to provide runoff treatment from future upland development.
  - (5) Runoff from existing development, redevelopment and infill areas shall meet the post-construction performance standards in accordance with this subsection.
    - a. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
    - b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as Wis. Admin. Code ch. NR 103 and Wis. Stats. ch. 30.
  - (6) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this article.
  - (7) BMP Location - The community development department or public works department may approve off-site management measures as part of a regional storm water device, practice or system, provided that all of the following conditions are met:
    - a. BMPs are installed in accordance with s. NR 151.003, Wis. Adm. Code.
    - b. The community development department or public works department determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the village and that contains management requirements consistent with the purpose and intent of this article.
    - c. The off-site facility meets all of the following conditions:
      1. The facility is in place.
      2. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this article.
      3. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
  - (8) Where a regional treatment option exists such that the community development department or public works department exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the community development department or public works

department. In determining the fee for post-construction runoff, the community development department or public works department shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

**(9) Water Quality Trading.** To comply with S.34-49 (d) performance standards, the Village may authorize credit for water quality trading provided all of the following conditions are satisfied:

- a. The treatment practices associated with a water quality trade shall be in place, effective and operational before credit can be authorized.
- b. The water quality trade shall comply with applicable trading ratios established by the Wisconsin Department of Natural Resources or the Village of Little Chute.
- c. The water quality trade shall comply with applicable regulations, standards, and guidance developed by the Wisconsin Department of Natural Resources or the Village of Little Chute.
- d. The responsible party shall furnish a copy of the executed water quality trading agreements or other related information deemed necessary by the Village of Little Chute in order to authorize credit.

- (g) Alternate requirements - The community development department or public works department may establish stormwater management requirements more stringent than those set forth in this section if the community development department or public works department determines that an added level of protection is needed to protect sensitive resources. Also, the community development department or public works department may establish stormwater management requirements less stringent than those set forth in this section if the community development department or public works department determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by state department of natural resources under Wis. Admin. Code ch. NR 151.

(Code 2006, § 15-5-25; Ord. No. 17(Ser. of 2007), § 7, 12-19-2007)

Secs. 34-950—34-971. - Reserved.

**DIVISION 3. - PERMITTING REQUIREMENTS, PROCEDURES AND FEES**

**Sec. 34-972. - Permit required.**

- (a) No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the community development department or public works department prior to commencing the proposed activity.
- (b) All responsible parties who have undertaken a land disturbing construction activity at a post-construction site without previously receiving a post-construction runoff permit who have constructed detention and/or retention basins under direction of the village as a condition for development shall obtain a post-construction runoff permit for future management and maintenance, meeting all other requirements hereunder, from the community development department or public works departments, within one year from the effective date of this article.

(Code 2006, § 15-5-26; Ord. No. 17(Ser. of 2007), § 8(1), 12-19-2007)

**Sec. 34-973. - Permit application and fees.**

Unless specifically excluded by this article, any responsible party desiring, or otherwise required to obtain, a permit shall submit to the community development department or public works department a permit application made on a form provided by the community development department or public works department for that purpose.

- (1) Unless otherwise excepted by this article, a permit application must be accompanied by a stormwater management plan, a maintenance agreement, a proposed financial guarantee, and a nonrefundable permit administration fee.
- (2) The stormwater management plan shall be prepared to meet the requirements of sections 34-949 and 34-1000, the maintenance agreement shall be prepared to meet the requirements of section 34-1001, the financial guarantee shall meet the requirements of division 5 of this article, and fees shall be those established by the village board as set forth in section 34-922.

(Ord. No. 17(Ser. of 2007), § 8(2), 12-19-2007)

**Sec. 34-974. - Review and approval of permit application.**

The community development department or public works department shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

- (1) Within 20 business days of the receipt of a complete permit application, including all items as required by section 34-973, the community development department or public works department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this article.
- (2) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the community development department or public works department shall issue the permit.
- (3) If the stormwater permit application, plan or maintenance agreement is disapproved, the community development department or public works department shall detail, in writing, the reasons for disapproval.
- (4) The community development department or public works department may request additional information from the applicant. If additional information is submitted, the community development department or public works department shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (5) Failure by the community development department or public works department to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(Code 2006, § 15-5-26; Ord. No. 17(Ser. of 2007), § 8(3), 12-19-2007)

**Sec. 34-975. - Permit requirements.**

All permits issued under this article shall be subject to the following conditions, and holders of permits issued under this article shall be deemed to have accepted these conditions. The community development department or public works department may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the community development department or public works department to suspend or revoke this permit may be appealed in accordance with section 34-1066.

- (1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (2) The responsible party shall design and install all structural and nonstructural stormwater management measures in accordance with the approved stormwater management plan and this permit.
- (3) The responsible party shall notify the community development department or public works department at least ten business days before commencing any work in conjunction with the stormwater management plan, and within ten business days upon completion of the stormwater management practices. If required as a special condition under section 34-976, the responsible party shall make additional notification according to a schedule set forth by the community development department or public works department so that practice installations can be inspected during construction.
- (4) Practice installations required as part of this article shall be certified as built by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the community development department or public works department or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The community development department or public works department or its designee shall notify the responsible party, in writing, of any changes required in such practices to bring them into compliance with the conditions of this permit.
- (5) The responsible party shall notify the community development department or public works department of any significant modifications it intends to make to an approved stormwater management plan. The community development department or public works department may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the responsible party.
- (6) The responsible party shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the village board, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (7) The responsible party authorizes the community development department or public works department to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. ch. 66, subch. VII, or to charging such costs against the financial guarantee posted under division 5 of this article.
- (8) If so directed by the community development department or public works department, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainageways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
- (9) The responsible party shall permit property access to the community development department or public works department or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- (10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the community development department or public works department may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (11) The responsible party is subject to the enforcement actions and penalties detailed in section 34-1065, if the responsible party fails to comply with the terms of this permit.
- (12) The permit applicant shall post the certificate of permit coverage in a conspicuous location at the construction site.

(Ord. No. 17(Ser. of 2007), § 8(4), 12-19-2007)

**Sec. 34-976. - Permit conditions.**

Permits issued under this subsection may include conditions established by the community development department or public works department in addition to the requirements needed to meet the performance standards in section 34-949 or a financial guarantee as provided for in division 5 of this article.

(Ord. No. 17(Ser. of 2007), § 8(5), 12-19-2007)

**Sec. 34-977. - Permit duration.**

Permits issued under this section shall be valid from the date of issuance through the date the community development department or public works department notifies the responsible party that all stormwater management practices have passed the final inspection required under section 34-975(4).

(Ord. No. 17(Ser. of 2007), § 8(6), 12-19-2007)

**Sec. 34-978. - Alternate requirements.**

The community development department or public works department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 34-949(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(Ord. No. 17(Ser. of 2007), § 8(7), 12-19-2007)

**Secs. 34-979—34-999. - Reserved.**

**DIVISION 4. - STORMWATER MANAGEMENT PLAN AND MAINTENANCE AGREEMENT**

**Sec. 34-1000. - Required.**

- (a) Plan requirements. The stormwater management plan required under section 34-973 shall comply with the stormwater reference guide and contain at a minimum the following information:
- (1) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
  - (2) A legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat..
  - (3) Predevelopment site conditions, including:
    - a. One or more site maps at a scale of not less than 1 inch equals [number] feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 40 feet; topography and drainage network including

enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.

- b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- (4) Post-development site conditions, including:
- a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
  - b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
  - c. One or more site maps at a scale of not less than 1 inch equals 40 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 40 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and offsite tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
  - d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
  - e. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
- (5) A description and installation schedule for the storm water management practices needed to meet the performance standards in section 34-949.
- (6) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
- (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
- (h) Other information requested in writing by the community development department or public works department to determine compliance of the proposed storm water management measures with the provisions of this ordinance.



- (i) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (b) Alternate requirements - The community development department or public works department may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 34-949(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(Ord. No. 17(Ser. of 2007), § 9, 12-19-2007)

**Sec. 34-1001. - Maintenance agreement.**

- (a) Required. The maintenance agreement required under section 34-973 for stormwater management practices shall be an agreement between the community development department or public works department and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement shall be filed with the county register of deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.
- (b) Agreement provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by section 34-949:
  - (1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
  - (2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under section 34-973.
  - (3) Identification of the responsible party, organization or city, county, town or village responsible for longterm maintenance of the stormwater management practices identified in the stormwater management plan required under section 34-973.
  - (4) Requirement that the responsible party, organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in subsection (b)(2) of this section.
  - (5) Authorization for the community development department or public works department to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
  - (6) A requirement on the community development department or public works department to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
  - (7) Agreement that the party designated under subsection (b)(3) of this section, as responsible for longterm maintenance of the stormwater management practices, shall be notified by the community development department or public works department of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the community development department or public works department.
  - (8) Authorization of the community development department or public works department to perform the corrected actions identified in the inspection report if the responsible party designated under subsection (b)(3) of this section does not make the required corrections in the specified time period. The community development department or public works department shall enter the



amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. ch. 66, subch. VII.

- (c) **Alternate requirements.** The community development department or public works department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 34-949(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(Ord. No. 17(Ser. of 2007), § 10, 12-19-2007)

Secs. 34-1002—34-1030. - Reserved.

#### **DIVISION 5. - FINANCIAL GUARANTEE**

##### **Sec. 34-1031. - Establishment of the guarantee.**

The community development department or public works department may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the community development department or public works department. The financial guarantee shall be in an amount determined by the community development department or public works department to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the community development department or public works department the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the community development department or public works department that the requirements of this article have not been met.

(Ord. No. 17(Ser. of 2007), § 11(1), 12-19-2007)

##### **Sec. 34-1032. - Conditions for release.**

Conditions for the release of the financial guarantee are as follows:

- (1) The community development department or public works department shall release the portion of the financial guarantee established under this section, less any costs incurred by the community development department or public works department to complete installation of practices, upon submission of as-built plans by a licensed professional engineer. The community development department or public works department may make provisions for a partial pro rata release of the financial guarantee based on the completion of various development stages.
- (2) The community development department or public works department shall release the portion of the financial guarantee established under this section to ensure maintenance of stormwater practices, less any costs incurred by the community development department or public works department, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(Ord. No. 17(Ser. of 2007), § 11(2), 12-19-2007)

##### **Sec. 34-1033. - Alternate requirements.**

The community development department or public works department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 34-949(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(Ord. No. 17(Ser. of 2007), § 11(3), 12-19-2007)

Secs. 34-1034—34-1064. - Reserved.

#### DIVISION 6. - ENFORCEMENT AND APPEALS

Sec. 34-1065. - Procedure.

- (a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of the ordinance from which this article is derived by any person, firm, association, or corporation subject to the article provisions shall be deemed a violation unless conducted in accordance with the requirements of this article.
- (b) The community development department or public works department shall notify the responsible party by certified mail of any noncomplying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (c) Upon receipt of written notification from the community development department or public works department under subsection (b) of this section, the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the community development department or public works department in the notice.
- (d) If the violations to a permit issued pursuant to this article are likely to result in damage to properties, public facilities, or waters of the state, the community development department or public works department may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the community development department or public works department plus interest and legal costs shall be billed to the responsible party.
- (e) The community development department or public works department is authorized to post a stop work order on all land disturbing construction activity that is in violation of this article, or to request the village attorney to obtain a cease and desist order in any court with jurisdiction.
- (f) The community development department or public works department may revoke a permit issued under this article for noncompliance with ordinance provisions.
- (g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the community development department or public works department or by a court with jurisdiction.
- (h) The community development department or public works department is authorized to refer any violation of this article, or of a stop work order or cease and desist order issued pursuant to this article, to the village attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (i) Any person, firm, association, or corporation who does not comply with the provisions of this article shall be subject to a forfeiture of not less than \$25.00 or more than \$500.00 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

- (j) Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (k) When the community development department or public works department determines that the holder of a permit issued pursuant to this article has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the community development department or public works department or a party designated by the community development department or public works department may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The community development department or public works department shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to division 5 of this article. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

(Ord. No. 17(Ser. of 2007), § 13, 12-19-2007)

Sec. 34-1066. - Board of appeals.

- (a) Authorization. The board of appeals, created pursuant to section 2-149 and Wis. Stats. § 61.354(4)(b), shall hear and decide appeals where it is alleged that there is an error in any order, decision or determination made by the community development department or public works department in administering this article. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this article that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the article will result in unnecessary hardship.
- (b) Who may appeal. Appeals to the board of appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the village affected by any decision of the community development department or public works department.

(Ord. No. 17(Ser. of 2007), § 14, 12-19-2007)

Sec. 34-1067. - Severability.

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

# APPLICATION FOR TEMPORARY CLASS "B"/"CLASS B" RETAILER'S LICENSE

See Additional Information on reverse side. Contact the municipal clerk if you have questions.

FEE \$ \_\_\_\_\_

Application Date: 3/31/17

☐ Town ☒ Village ☐ City of Little Chute

County of Outagamie

The named organization applies for: (check appropriate box(es).)

☒ A Temporary Class "B" license to sell fermented malt beverages at picnics or similar gatherings under s. 125.26(6), Wis. Stats.

☒ A Temporary "Class B" license to sell wine at picnics or similar gatherings under s. 125.51(10), Wis. Stats.

at the premises described below during a special event beginning June 2, 2017 and ending June 4, 2017 and agrees to comply with all laws, resolutions, ordinances and regulations (state, federal or local) affecting the sale of fermented malt beverages and/or wine if the license is granted.

1. ORGANIZATION (check appropriate box) ☒ Bona fide Club ☐ Church ☐ Lodge/Society ☐ Veteran's Organization ☐ Fair Association

(a) Name Little Chute Jaycees

(b) Address P.O. Box 66, Little Chute, WI 54140  
(Street)

(c) Date organized 1/1975

☐ Town ☒ Village ☐ City

(d) If corporation, give date of incorporation \_\_\_\_\_

\* (e) If the named organization is not required to hold a Wisconsin seller's permit pursuant to s. 77.54 (7m), Wis. Stats., check this box: ☐

(f) Names and addresses of all officers:

President Craig Spierings

Vice President \_\_\_\_\_

Secretary Todd Berken (if you could, put this name on license please)

Treasurer Kevin Evers

\* (g) Name and address of manager or person in charge of affair: \_\_\_\_\_

## \* 2. LOCATION OF PREMISES WHERE BEER AND/OR WINE WILL BE SOLD:

(a) Street number 100 Van Buren St.

(b) Lot \_\_\_\_\_ Block \_\_\_\_\_

(c) Do premises occupy all or part of building? \_\_\_\_\_

(d) If part of building, describe fully all premises covered under this application, which floor or floors, or room or rooms, license is to cover: \_\_\_\_\_

## 3. NAME OF EVENT

(a) List name of the event Great Wisconsin Cheese Festival

(b) Dates of event 6/2/17 - 6/4/17

## DECLARATION

The Officer(s) of the organization, individually and together, declare under penalties of law that the information provided in this application is true and correct to the best of their knowledge and belief.

Officer Todd Berken 3/31/17  
(Signature/date)

Little Chute Jaycees  
(Name of Organization)

Officer \_\_\_\_\_  
(Signature/date)

Officer \_\_\_\_\_  
(Signature/date)

Officer \_\_\_\_\_  
(Signature/date)

Date Filed with Clerk 3/31/17

Date Reported to Council or Board \_\_\_\_\_

Date Granted by Council \_\_\_\_\_

License No. \_\_\_\_\_