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ARTICLE VI. STORMWATER MANAGEMENT SERVICES

Sec. 34-522. Findings and necessity.

The village finds that the management of stormwater and other surface water discharge within and beyond the Fox River is a matter that affects the health, safety and welfare of the village, its citizens and businesses and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the village by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewer. In addition, surface water runoff may create erosion of lands, threaten businesses and residences with water damage and create sedimentation and other environmental damage in the Fox River. Those elements of the system which provide for the collection of and disposal of stormwater and regulation of groundwater are of benefit and provide services to all property within the village, including property not presently served by the storm elements of the system. The cost of operating and maintaining the village stormwater management system and financing necessary repairs, replacements, improvements and extension thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom. In order to protect the health, safety and welfare of the public, the village board is exercising its authority to establish a stormwater utility and set the rates for stormwater management services. The village is acting under the authority of Wis. Stats. chs. 61 and 66, and particularly at least the following statutes: Wis. Stats. §§ 61.34, 66.0621, 66.0809, 66.0811, 66.0813, and 66.0821.

(Code 2006, § 9-5-1)

Sec. 34-523. 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:

Developed property means real property that has been altered from its natural state by the addition of any improvements that may include a building, structure, impervious surface, and change of grade or landscaping.

Director means the director of public works, or his designee.

Duplex unit means any residential space identified for habitation by members of the same household attached to only one other residential space or as classified by the village building code.

Dwelling unit means any residential space identified for habitation by members of the same household or as classified by the village building code. The term "dwelling unit" includes, but is not limited to, all duplexes, apartments, residential condominiums and townhouse living units.

Equivalent runoff unit (ERU) means the statistical average horizontal impervious area of single-family homes within the village on the date of adoption of the ordinance from which this article is derived. The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.

Impervious area or impervious surface means areas that have been paved, covered or compacted to inhibit the natural infiltration of water into the soil or cause water to run off the area in greater quantities or at an increased rate of flow from that present under natural conditions as undeveloped property. Such areas may include, but are not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, gravel, athletic courts and compacted surfaces. Excluded from this definition are undisturbed land, lawns and fields.

Nonresidential property means any developed lot or parcel not exclusively residential as defined herein, including, but not limited to, transient rentals (such as hotels and motels), mobile home park, commercial, industrial, institutional, governmental property and parking lots.

Residential property means any lot or parcel developed exclusively for residential purposes including, but not limited to, single-family homes, manufactured homes, multifamily apartment buildings and condominiums.

Runoff means the surface water, including rain and snow melt, that is inhibited by impervious surfaces from naturally infiltrating into soil.

Stormwater facilities means all constructed facilities or natural features used for collecting, storing, and conducting stormwater to, through and from drainage areas to the point of final outlet. The term "stormwater facilities" collectively constitute a stormwater system.

Undeveloped property means that which has not been altered from its natural state by the addition of any improvements such as a building, structure, impervious surface, change of grade or landscaping. For new construction, a property shall be considered developed pursuant to this article at the time of water meter installation or upon review of the actual impervious area by January 1.

(Code 2006, § 9-5-4)

Sec. 34-524. Village stormwater utility--Established.

There is hereby established a village stormwater utility. The operation of the stormwater utility shall be under the supervision of the village board. The director of public works/engineer will be in charge of the stormwater utility.

(Code 2006, § 9-5-2)

Sec. 34-525. Same--Authority.

The village, through the stormwater utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such real estate and facilities as are deemed by the village to be proper and reasonably necessary for a system of stormwater and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls and ponds, detention basins, and such other facilities as will support a stormwater management system.

(Code 2006, § 9-5-3)

Sec. 34-526. Rate charges.

(a) By this article, the village board is establishing the rate charge upon each lot and parcel within the village for services and facilities provided by the stormwater utility. The actual charges to be imposed, the establishment of formulas for calculations of the charges, the establishment of specific customer classifications and any future changes in those rates, formulas, rate charges and customer classifications, may be made by resolution. All rates established pursuant to this article will be fair and reasonable in accordance with the decision and judgment of the village board. The current rates will be on file with the finance director.

(b) Rate charges shall be used to share the costs of the stormwater utility. These rate charges may include:

(1) *Base charge (BC)*. The base charge may be imposed on all property in the village. The base charge will be designed to reflect the fact that all properties benefit from the stormwater management activities of the village and that all property contribute in some way to the stormwater discharge that must be managed by the village. The BC will be designed to collect the administrative costs of the storm sewer utility and the portion of capital costs not covered by special assessment. The BC may be based on the size of a parcel of property.

(2) *Equivalent runoff unit charge (ERU)*. This charge shall be imposed on all property that has any developed impervious area. The ERU will be designed on the basis of a typical residential

unit of property. Other units of property will be charged multiples of the ERU based on the impervious area contributing to surface water runoff.

(3) *Special charge (SC)*. This charge may be imposed on property that is in an area specially benefited by a particular stormwater management facility. The SC will be developed to reflect the benefits/services in a particular area that may not be appropriate to spread to property throughout the village. The SC will be calculated on an ERU basis.

(4) *Charges applied to debt*. Funds collected from any one or more rate charges imposed pursuant to this article may be applied to preexisting village debt incurred for stormwater facilities including debt incurred prior to the initial adoption of the ordinance from which section 34-530 is derived, and any such application will be deemed a current year expenditure exempt from the restrictions in section 34-531 which otherwise requires excess revenues to be applied to subsequent years' needs.

(c) The village board may make such other and customer classifications as will be likely to provide reasonable and fair distribution of the costs of the stormwater utility. In so doing, the board may provide credits against certain of the charges set forth above for facilities installed and maintained by the property owner for the purpose of lessening the stormwater flow from that given property.

(d) The village's department of finance is hereby appointed as the collection agency for the village stormwater utility. Bills shall be prepared by the department of finance or its agent and sent to the owner or occupant of each premises served. The department of finance shall allocate the actual cost of billing and collecting.

(e) The bills for stormwater utility charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this article. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the village for the purpose of determining whether such rates and charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.

(f) Stormwater utility charges shall not be payable in installments. If stormwater utility charges remain unpaid after a period 20 days from the date of utility bill, such bill shall become a delinquent special charge and shall become a lien as provided in Wis. Stats. § 66.0621. Said charges shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges. Unpaid charges shall be assessed the same as the water utility bills.

(g) All delinquent charges shall be subject to a ten percent penalty in addition to all other charges and prior penalties or interest when the delinquent charge is extended upon the tax roll. (Code 2006, § 9-5-5; Ord. No. 5(Ser. of 2000), 6-21-2000)

Sec. 34-527. Customer classification.

(a) For purposes of imposing the stormwater charges, all lots and parcels within the village are classified into the following five customer classes:

- (1) Residential, single-family.
- (2) Residential, duplex.
- (3) Residential, multifamily and condominiums.
- (4) Nonresidential.
- (5) Undeveloped.

(b) The director and zoning administrator shall prepare a list of lots and parcels within the village and assign a classification of residential, nonresidential or undeveloped to each lot or parcel.

- (c) The average square footage of impervious area of the ERU is established to be equivalent to 2,762 square feet.
 - (d) The charges imposed for single-family residential properties shall be the rate for one ERU.
 - (e) The charges imposed for duplex residential properties shall be the rate for 0.6 of one ERU per each individual dwelling unit existing on the property (ERU rate multiplied by the number of dwelling units).
 - (f) The charges imposed for multifamily and condominium residential properties shall be the same as nonresidential properties.
 - (g) The charges imposed for nonresidential properties as defined in section 34-523 shall be the rate for one ERU, multiplied by the numerical factor obtained by dividing the total impervious area of a nonresidential property by the square footage of one ERU. The formula as follows:
ERU rate multiplied by impervious area 2,762
The factor shall be rounded down to the nearest one-tenth.
 - (h) The director shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the village assessor, aerial photography, the property owner, tenant or developer. The director may require additional information as necessary to make the determination. The billing amount shall be updated by the director based on any additions to the impervious area. Upon property owners notification and request, the director shall review impervious area for possible reductions.
 - (i) The minimum charges for any developed parcel shall be equal to the rate for four-tenths of one ERU.
- (Code 2006, § 9-5-6)

Sec. 34-528. New construction.

The owner shall also be liable for stormwater charges, under this article, for the improvement from the date of water meter installation or upon review of the actual impervious area by January 1.

(Code 2006, § 9-5-7)

Sec. 34-529. Method of appeal.

- (a) The stormwater utility charge may be appealed as follows:
 - (1) A written appeal shall be filed with the director of public works prior to the utility charge due date; or as a condition of appeal shall be accompanied by payment of the charge.
 - (2) Within 30 days of payment, a written challenge to the stormwater charge must be filed with the director of public works on behalf of the customer, specifying all bases for the challenge and the amount of the stormwater charge the customer asserts is appropriate. Failure to file a challenge within 30 days of payment waives all right to later challenge the charge. The director will forward these documents to the village administrator.
 - (b) A property owner not satisfied with the director of public works decision can appeal to the administrator for his review and action.
 - (c) Following review by the director of public works and the administrator, the village board will determine whether the stormwater charge is fair and reasonable, or whether a refund is due the customer. The village board may act with or without a hearing, and will inform the customer in writing of its decision. If the village board determines that a refund is due the customer, the refund will be applied as a credit on the customer's next monthly stormwater billing, if the refund will not exceed the customer's next monthly stormwater billing, or will be refunded at the discretion of the director of finance without interest.
- (Code 2006, § 9-5-8)

Sec. 34-530. Special assessment authority.

In addition to any other method for collection of the charges established pursuant to this article for stormwater utility costs, the village board finds that these charges may be levied on property as a special charge pursuant to Wis. Stats. § 66.0621. The charges established hereunder are being made pursuant to the police powers of the village and may be assessed as special charges. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in them being charged pursuant to the authority of Wis. Stats. § 66.0621. In addition, the village may provide notice each September of any unpaid charges to the stormwater utility, which charges, if not paid by November 15, may be placed upon the tax roll under Wis. Stats. § 66.0621.
(Code 2006, § 9-5-9)

Sec. 34-531. Budget excess revenues.

The stormwater utility finances shall be accounted for in a separate stormwater management fund by the village. The utility shall prepare an annual budget, which is to include all operation and maintenance costs, administrative costs, depreciation costs, debt service and other costs related to the operation of the stormwater utility. The budget is subject to approval by the village board. The costs shall be spread over the rate classifications as determined by the board. Any excess of revenues over expenditures in a year will be retained by the stormwater management fund for subsequent years' needs.
(Code 2006, § 9-5-10)
Secs. 34-532--34-555. Reserved.

ARTICLE VII. ILLICIT DISCHARGE AND CONNECTION

DIVISION 1. GENERALLY

Sec. 34-556. Purpose.

The purpose of this article is to provide for the health, safety, environment and general welfare of the citizens of the village through the regulation of nonstormwater discharges into waters of the state or the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into waters of the state or the MS4 in order to comply with requirements of the state pollutant discharge elimination system (WPDES) permit process. The objectives of this article are:

- (1) To regulate the contribution of pollutants into waters of the state or the MS4 by stormwater discharges by any user.
 - (2) To prohibit illicit connections and discharges into waters of the state or the MS4.
 - (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this article.
- (Ord. No. 15(Ser. of 2007), § 1, 12-19-2007)

Sec. 34-557. 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:

Authorized enforcement agency means employees or designees of the public works department of the village are designated to administer and enforce this article.

Best management practices (BMPs) 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.

Construction activity means activities subject to construction permits pursuant to article VIII of this chapter, pertaining to construction site erosion control or WPDES construction permits pursuant to Wis. Admin. § NR 216 and Wis. Stats. ch. 283.

Contaminated stormwater means stormwater that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in Wis. Admin. Code ch. NR 216.

Department (DNR) means the Wisconsin Department of Natural Resources.

Discharge, as defined in Wis. Stats. ch. 283, when used without qualification, includes a discharge of any pollutant.

Discharge of pollutants means, as defined in Wis. Stats. ch. 283, any addition of any pollutant to the waters of this state from any point source.

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

Illicit connection means either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter waters of the state or the MS4 including but not limited to any conveyances that allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter waters of the state or the MS4 and any connections to waters of the state or the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to waters of the state or the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any discharge into waters of the state or a municipal separate storm sewer system that is not composed entirely of stormwater. Nonstormwater discharges that are not considered illicit discharges include water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, firefighting, and discharges authorized under a WPDES permit unless identified by the public works department as a significant source of pollutants to waters of the state.

Industrial activity means activities subject to WPDES industrial permits pursuant to Wis. Admin. Code ch. NR 216 and Wis. Stats. ch. 283.

Maximum extent practicable (MEP) means a level of implementing management practices in order to achieve a performance standard or other goal 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.

Municipality means any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, stormwater or other wastes.

Municipal separate storm sewer system (MS4) means, as defined in Wis. Admin. Code ch. NR 216, a conveyance or system of conveyances including roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

- (1) Owned or operated by a municipality.
- (2) Designed or used for collecting or conveying stormwater.
- (3) Which is not a combined sewer conveying both sanitary and stormwater.
- (4) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

Nonstormwater discharge means any discharge to the MS4 that is not composed entirely of stormwater.

Outfall means the point at which stormwater is discharged to waters of the state or to a storm sewer.

Owner means any person holding fee title, an easement or other interest in property.

Person means an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

Pollutant means, as defined in Wis. Stats. ch. 283, any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means, as defined in Wis. Stats. ch. 283, any manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pollution prevention means taking measures to eliminate or reduce pollution.

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

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

Stormwater management plan or *stormwater pollution prevention plan* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to waters of the state or the MS4 to the maximum extent practicable.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse means a natural or artificial channel through which water flows.

- (1) Watercourse channels include:
 - a. All blue and dashed blue lines on the USGS quadrangle maps;
 - b. All channels shown on the soils maps in the NRCS soils book for the county;
 - c. All channels identified on the site; and
 - d. New channels that are created as part of a development.
- (2) The term watercourse includes waters of the state as defined in this section.

Waters of the state means, as defined in Wis. Stats. ch. 283, those portions of Lake Michigan and Lake Superior within the boundaries of the state, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

Wisconsin pollutant discharge elimination system (WPDES) stormwater discharge permit means a state pollutant discharge elimination system permit issued pursuant to Wis. Stats. ch. 283.

(Ord. No. 15(Ser. of 2007), § 2, 12-19-2007)

Sec. 34-558. Applicability of article.

This article shall apply to all water and discharges entering waters of the state or the MS4 generated on any lands unless explicitly exempted by the public works department.
(Ord. No. 15(Ser. of 2007), § 3, 12-19-2007)

Sec. 34-559. Public works department to administer.

The public works department shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the public works department may be delegated in writing by the director of the public works department to persons or entities acting in the beneficial interest of or in the employ of the authorized enforcement agency.
(Ord. No. 15(Ser. of 2007), § 4, 12-19-2007)

Sec. 34-560. Conflict of article.

This article is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.
(Ord. No. 15(Ser. of 2007), § 5, 12-19-2007)

Sec. 34-561. Violation--Cost of abatement.

The costs of the work performed by the public works department pursuant to this article, plus interest at the rate authorized by the public works department shall be billed to the responsible party. 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.
(Ord. No. 15(Ser. of 2007), § 16, 12-19-2007)

Sec. 34-562. Same--Deemed nuisance.

Any condition in violation of any of the provisions of this article and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.
(Ord. No. 15(Ser. of 2007), § 17, 12-19-2007)
Secs. 34-563--34-587. Reserved.

DIVISION 2. DISCHARGE PROHIBITIONS

Sec. 34-588. Discharges--Prohibited.

No person shall throw, dump, spill, drain, or otherwise discharge, cause, or allow others under its control to throw, dump, spill, drain, or otherwise discharge into waters of the state or the MS4 any pollutants or waters containing any pollutants, other than stormwater.
(Ord. No. 15(Ser. of 2007), § 8(8.1), 12-19-2007)

Sec. 34-589. Same--Allowed.

(a) Water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and discharges

authorized under a WPDES permit unless identified by the public works department as a significant source of pollutants to waters of the state.

(b) Discharges or flow from firefighting, and other discharges specified, in writing, by the public works department as being necessary to protect public health and safety.

(c) Discharges associated with dye testing, however this activity requires a verbal notification to the public works department and the department of natural resources a minimum of one business day prior to the time of the test.

(d) Any nonstormwater discharges permitted under a construction activity permit, industrial activity permit, or WPDES permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the public works department prior to allowing discharges to waters of the state or the MS4.

(Ord. No. 15(Ser. of 2007), § 8(8.2), 12-19-2007)

Sec. 34-590. Illicit connections.

(a) The construction, use, maintenance or continued existence of illicit connections to waters of the state or the MS4 is prohibited.

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

(c) A person is considered to be in violation of this article if the person connects a line conveying sewage to waters of the state or the MS4, or allows such a connection to continue.

(d) Improper connections in violation of this article must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the public works department.

(e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to waters of the state or the MS4, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the public works department requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the public works department.

(Ord. No. 15(Ser. of 2007), § 8(8.3), 12-19-2007)

Secs. 34-591--34-613. Reserved.

DIVISION 3. WATERCOURSE PROTECTION

Sec. 34-614. Owners of property's responsibilities.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of soil erosion, trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. No. 15(Ser. of 2007), § 9, 12-19-2007)

Secs. 34-615--34-630. Reserved.

DIVISION 4. COMPLIANCE MONITORING

Sec. 34-631. Right of entry; inspecting and sampling.

(a) The public works department shall be permitted to enter and inspect properties and facilities subject to regulation under this article as often as may be necessary to determine compliance with this article as follows:

(1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the public works department.

(2) Facility owners and operators shall allow the public works department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

(3) The public works department shall have the right to set up on any property or facility such devices as are necessary in the opinion of the public works department to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The public works department has the right to require the owner or operator to install monitoring equipment as necessary, and make the monitoring data available to the public works department. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

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

(6) Unreasonable delays in allowing the public works department access to a facility is a violation of this article.

(b) A person who is the operator of a facility commits an offense if the person denies the public works department reasonable access to the facility for the purpose of conducting any activity authorized or required by this article.

(Ord. No. 15(Ser. of 2007), § 10(10.1), 12-19-2007)

Sec. 34-632. Special inspection warrant.

If the public works department has been refused access to any part of the premises from which stormwater is discharged, and the public works department is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the public works department may seek issuance of a special inspection warrant pursuant to Wis. Stats. § 66.0119 and village ordinances.

(Ord. No. 15(Ser. of 2007), § 10(10.2), 12-19-2007)

Secs. 34-633--34-654. Reserved.

DIVISION 5. PREVENTION, CONTROL AND REDUCTION OF STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

Sec. 34-655. Reasonable protection from accidental discharge; compliance with valid permit required.

The owner or operator of any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater shall provide, at their own expense, reasonable

protection from accidental discharge of prohibited materials or other wastes into waters of the state or the MS4 through the use of structural and nonstructural BMPs. Further, any person responsible for a property or premises, that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to waters of the state or the MS4. Compliance with all terms and conditions of a valid permit authorizing the discharge of stormwater associated with industrial activity or construction activity, to the maximum extent practicable, shall be deemed compliance with the provisions of this section.

(Ord. No. 15(Ser. of 2007), § 11, 12-19-2007)

Secs. 34-656--34-683. Reserved.

DIVISION 6. NOTIFICATION OF SPILLS

Sec. 34-684. Responsible party to take necessary steps to minimize impact of discharge.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release, so as to minimize the impacts of the discharge.

(Ord. No. 15(Ser. of 2007), § 12, 12-19-2007)

Sec. 34-685. Notification procedures; records to be kept for five years.

In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services, and shall also notify the public works department. In the event of a release of nonhazardous materials, said person shall notify the public works department in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the public works department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five years. Failure to provide notification of a release as provided above is a violation of this article.

(Ord. No. 15(Ser. of 2007), § 12, 12-19-2007) Secs. 34-686--34-713. Reserved.

DIVISION 7. VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec. 34-714. Violations of article; public works authorized to abate if constitutes danger.

(a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this division or may be restrained by injunction or otherwise abated in a manner provided by law.

(b) In the event the violation constitutes an immediate danger to public health or public safety, the public works department is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The public works department is authorized to seek costs of the abatement as outlined in section 34-561.

(Ord. No. 15(Ser. of 2007), § 13(13.1), 12-19-2007)

Sec. 34-715. Warning notice.

When the public works department finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the public works department may serve upon that person a verbal or written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this section shall limit the authority of the public works department to take action, including emergency action or any other enforcement action without first issuing a warning notice. (Ord. No. 15(Ser. of 2007), § 13(13.2), 12-19-2007)

Sec. 34-716. Notice of violation.

(a) *Notification in writing.* Whenever the public works department finds that a person has violated a prohibition or failed to meet a requirement of this article, the public works department may order compliance by written notice of violation to the responsible person.

(b) *Contents.* The notice of violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the public works department by filing a written notice of appeal within three business days of service of notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, representatives of the 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 public works department may go on the land and commence the work after issuing the notice of intent. The public works department is authorized to seek costs of the abatement as outlined in section 34-561.

(c) *Requirements.* Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of BMPs.

(Ord. No. 15(Ser. of 2007), § 13(13.3), 12-19-2007)

Sec. 34-717. Suspension of MS4 access.

(a) *Emergency cease and desist orders.*

- (1) When the public works department finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation has caused or contributed to an

actual or threatened discharge to the MS4 or waters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the public works department may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- a. Immediately comply with all ordinance requirements; and
- b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(2) Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the public works department may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the state, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The public works department may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the public works department that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the public works department within 30 days of receipt of the prerequisite for, taking any other action against the violator.

(b) *Suspension due to--Illicit discharges in emergency situations.* The public works department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the public works department may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

(c) *Same--Detection of illicit discharge.* Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The public works department will notify a violator of the proposed termination of its MS4 access.

(d) *Offense to reinstate access without approval.* A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this division, without the prior approval of the public works department.

(Ord. No. 15(Ser. of 2007), § 13(13.4), 12-19-2007)

Sec. 34-718. Prosecution and penalties.

(a) Any person violating any provision 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.

(b) 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.

(Ord. No. 15(Ser. of 2007), § 13(13.5), 12-19-2007)

Secs. 34-719--34-749. Reserved.

DIVISION 8. APPEALS AND ENFORCEMENT MEASURES AFTER APPEAL

Sec. 34-750. Board of appeals.

(a) *Authority.* The board of appeals created pursuant to section 2-149 and pursuant to 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 public works department in administering this article except for cease and desist orders obtained under section 34-717(a);

(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 this article will result in unnecessary hardship; and

(3) Shall use rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(b) *Who may appeal.* 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 public works department.

(Ord. No. 15(Ser. of 2007), § 14, 12-19-2007)

Sec. 34-751. Notice of intent to correct; authority to seek abatement costs.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, the appropriate authority upheld the decision of the public works department, then representatives of the 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 public works department may go on the land and commence the work after issuing the notice of intent. The public works department is authorized to seek costs of abatement as outlined in section 34-561. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth in this section.

(Ord. No. 15(Ser. of 2007), § 15, 12-19-2007)

Secs. 34-752--34-770. Reserved.

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. 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.
- b. 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.
- c. Nonpoint discharges from agricultural activity areas.
- d. Nonpoint discharges from silviculture activities.
- e. Mill and crush operations.

(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.

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.

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.

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.

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. 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. 34-777. 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. 34-778--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) Technical standards and other guidance identified within the stormwater reference guide.

(3) 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) BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the construction site as follows:

a. For construction sites with one acre or greater of land disturbing construction activity, reduce the total suspended solids load by 80 percent, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80 percent sediment reduction to meet the requirements of this subsection. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this subsection. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

b. For construction sites with less than one acre of land disturbing construction activity, reduce the total suspended solids load using BMPs from the stormwater reference guide. These sites are not required to satisfy a numeric performance standard.

(2) Notwithstanding subsection (c)(1) of this section, if BMPs cannot be designed and implemented to reduce the sediment load by 80 percent, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80 percent reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(3) Where appropriate, the plan shall include 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.

(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.

(d) *Location.* The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

(e) *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.

(2) A legal description of the property proposed to be developed.

(3) A site map with property lines, disturbed limits, and drainage patterns.

- (4) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities.
 - (5) Performance standards applicable to site.
 - (6) Proposed best management practices.
- (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, 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--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, drainageways, 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 longterm, 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.

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 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 storms for the village are:

- (1) One-year, 2.2 inches;
- (2) Two-year, 2.5 inches;
- (3) Five-year, 3.3 inches;
- (4) Ten-year, 3.8 inches;
- (5) Twenty five-year, 4.4 inches;
- (6) Fifty-year, 4.9 inches; and
- (7) One hundred-year, 5.3 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.

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.

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.

Off site 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.

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, 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 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.

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. 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. 34-923--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) *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 and post-construction sites with one acre or more of land disturbance, the following is 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. 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 of this article are required to satisfy the performance standards within subsection (c)(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 (c)(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.

(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:

1. The peak post-development discharge rate shall not exceed the peak predevelopment discharge rate for the 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. 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 runoff curve numbers:

TABLE INSET:

Maximum Predevelopment Runoff Curve Numbers -- Meadow				
Hydrologic soil group	A	B	C	D
Runoff curve number	30	58	71	78

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 (c)(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 in accordance with the following, except as provided in subsection (c)(3)h--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.
 - c. 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:

TABLE INSET:

Maximum Predevelopment Runoff Curve Numbers - Cropland				
Hydrologic soil group	A	B	C	D
Runoff curve number	56	70	79	83

- d. 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.
- e. 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 (c)(3)a--c of this section.
- f. The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- g. 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 (c)(3)k of this section. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- h. Exclusions. Infiltration of runoff from the following areas are prohibited from meeting the infiltration requirements of this subsection (c)(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 upgradient 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 (c)(3)h.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 (c)(3)h.9 does not prohibit infiltration of roof runoff.
 - i. Exemptions. Infiltration of runoff from the following areas are not required to meet the infiltration requirements of this subsection (c)(3):
 1. Areas where the infiltration rate of the soil is less than 0.6 inches per hour measured at the site.
 2. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 3. Redevelopment and routine maintenance areas.
 4. Infill areas less than five acres.
 5. Infiltration areas during periods when the soil on the site is frozen.
 6. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
 7. Highways provided the transportation facility is not part of a larger common plan of development or sale.
 - j. 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 (c)(3).
 - k. Infiltration systems designed in accordance with this subsection (c)(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 (c)(3)k.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 highly susceptible wetlands, a width of 50 feet. Highly susceptible wetlands include the following types:
 - (i) Fens;
 - (ii) Sedge meadows;
 - (iii) Bogs;
 - (iv) Low prairies;
 - (v) Conifer swamps;
 - (vi) Shrub swamps;
 - (vii) Other forested wetlands;
 - (viii) Fresh wet meadows;
 - (ix) Shallow marshes;
 - (x) Deep marshes; and
 - (xi) Seasonally flooded basins.
5. 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.
6. In subsections (c)(4)a.1, 4 and 5 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.
7. For concentrated flow channels with drainage areas greater than 130 acres, a width of ten feet.

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 (c)(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 (c)(4) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection (c)(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. 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 (c)(4)f.2, 3 or 4 of this section.

f. Exemptions. The following areas are not required to meet the protective area requirements of this subsection (c)(4):

1. Redevelopment and routine maintenance areas; provided the minimum requirements in subsection (c)(4)e of this section are satisfied.

2. Structures that cross or access surface waters such as boat landings, bridges and culverts.

3. Structures constructed in accordance with Wis. Stats. § 59.692(1v).

4. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

(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 (c)(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.

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 (c) 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.
- (d) *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.
- (e) *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 (e)(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) The community development department or public works department may approve off-site management measures provided that all of the following conditions are met:
 - a. 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.
 - b. 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 longterm 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.

(f) *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.
- (2) A legal description of the property proposed to be developed.
- (3) Predevelopment site map with property lines, disturbed limits, and drainage patterns.
- (4) Post-development site map with property lines, disturbed limits, and drainage patterns.
 - 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.

(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)