

## STORMWATER AND EROSION CONTROL

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## **STORMWATER AND EROSION CONTROL**

### **16.01 Authority.**

(A) This Chapter is adopted under the authority granted by ss. 62.234, Wis. Stats. The requirements of this Chapter do not preempt more stringent stormwater management requirements that may be imposed by any of the following:

(1) Wisconsin Department of Natural Resources administrative rules, permits, or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.;

(2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under NR 151.004, Wisconsin Administrative Code.

### **16.02 Findings, Purpose, and Intent.**

(A) Findings. The Village Board for the Village of West Salem finds that construction site erosion and uncontrolled stormwater runoff from land development activities adversely affect water resources and the health, safety, property, and general welfare of the Village, its citizens, and others in the surrounding area. Soil erosion and stormwater runoff specifically can:

(1) Carry sediment, nutrients, pathogens, organic matter, heavy metals, toxins, and other pollutants to regional lakes, streams, creeks, and wetlands;

(2) Diminish the capacity of water resources to support recreational uses and a natural diversity of plant and animal life;

(3) Clog the Village's existing stormwater drainage system, which will increase operational problems and maintenance costs;

(4) Cause bank and channel erosion;

(5) Increase downstream flooding;

(6) Reduce groundwater recharge, which thereby reduces base flows and lowers water levels in regional lakes, ponds, and wetlands;

(7) Increase the risk of property damage and personal injury; and

(8) Cause damage to agricultural fields and crops.

(B) Purpose. The purpose of this Chapter is to set forth the minimum requirements for construction site erosion, pollution control, and stormwater management so as to diminish threats to public health and safety, public and private property, and the natural resources of the Village.

(C) Intent. This Chapter is intended to regulate construction site stormwater runoff and erosion and to accomplish the following objectives:

- (1) Promote stormwater management within the areas subject to this Chapter;
- (2) Minimize the effects of sedimentation, flooding, and water pollution as a result of heavy metals, nutrients, chemical and petroleum-based products, and any other contaminants;
- (3) Promote infiltration and groundwater recharge;
- (4) Protect public and private property from damage resulting from stormwater runoff or erosion;
- (5) Reduce flood damage to property as a result of large storm events;
- (6) Achieve a reduction in average annual sediment loads to surface waters;
- (7) Ensure no increase in the rate of surface water drainage from construction during or following the completion of construction.

(D) Declaration of Policy. The Village finds and declares that effective erosion and stormwater management depends upon proper planning and design, and the timely installation of management practices and their ongoing maintenance.

### **16.03 Definitions.**

(A) For the purposes of this Chapter, words used in the singular shall include the plural, and vice versa. Words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. As used in this Chapter, the following terms are defined as follows:

- (1) "Agricultural" means related to or used for the production of food, including, but not limited to, general farming, livestock and poultry, grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production, cranberry production, and wild crop harvesting, and includes lands used for on-site buildings and other structures necessary to carry out such activities.
- (2) "Affected" means that a regulated activity has significantly caused negative impacts on water quality, or the use or maintenance of land or business, or has endangered health, safety, and general public welfare.

(3) "Average annual rainfall" means the averaged calendar year of precipitation in La Crosse, Wisconsin, excluding snowfall, for properties in La Crosse County, as defined by NR Chapter 151, or any amendments thereto

(4) "Bank erosion" means the removal of soil, sediment, or rock fragments along the banks or bed of a stream channel, which results from high water flow after runoff events.

(5) "Best management practice, or 'BMP's" means a practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. Such practices can include structural, vegetative or operational practices.

(6) "Village Administrative Authority" means the Village Board, Village Engineer, or any other Village employee or official assigned or charged with the responsibility of administering and enforcing the requirements of this Chapter or any independent contractor retained by the Village for such purpose.

(7) "Construction site erosion control" means preventing or reducing soil erosion and sedimentation from land disturbing activity.

(8) "Department" refers to the La Crosse County Department of Land Conservation.

(9) "Erosion" means the detachment and/or movement of soil or rock fragments caused by water, wind, ice, or gravity.

(10) "Excavation" means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include the resulting conditions.

(11) "Exemption" means that a certain standard or practice is not required under the set conditions, but may be implemented if so chosen.

(12) "Existing development" means any building, structure, or other impervious areas in existence on January 1, 2017, or development for which a notice of intent was received by the DNR or the Wisconsin Department of Commerce on or before January 1, 2017.

(13) "Fill" means any act by which soil, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or otherwise moved to a new location, and shall include the resulting conditions.

(14) "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% of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization structures.

(15) "Grading" means the altering of the elevation of a land surface by stripping, excavating, filling, or stockpiling of soil materials, or any combination of such activities, and shall include the land from which the material was taken or upon which it was placed.

(16) "Heavily disturbed site" means a site where an area of land is subjected to significant compaction due to the removal of vegetative cover or earthmoving activities, including, but not limited to, construction and filling.

(17) "Hydrologic Soil Group (HSG)" has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

(18) "Illicit Discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of runoff, except discharges authorized by a Wisconsin Pollutant Discharge Elimination System permit or any other discharge not requiring a Wisconsin Pollutant Discharge Elimination System permit such as water line flushing, landscape irrigation, individual residential car washing, fire-fighting, and similar discharges.

(19) "Impervious surface" means any land cover preventing rain or melting snow from soaking into the ground, such as roofs (including overhangs), roads, sidewalks, patios, driveways, and parking lots. For purposes of this Chapter, all road, driveway or parking surfaces, including gravel surfaces, shall be considered impervious, unless such surface cover is specifically designed to encourage infiltration and the design of the surface cover is approved by the Village Engineer.

(20) "Improvement" means any structure, fixture, erection, construction, demolition, alteration, excavation, filling, grading, tiling, planting, clearing or landscaping that is built, erected, made, or done on or to a parcel for its permanent benefit.

(21) "Infiltration" for the purposes of this Chapter refers to any precipitation which does not leave a site as surface runoff.

(22) "Infiltration system" means a device or practice such as a basin, trench, rain garden, or swale designed to specifically increase infiltration, but does not include natural infiltration in pervious surfaces such as lawns, the redirection of rooftop downspouts onto pervious surfaces, or minimal infiltration from practices such as swales or roadside channels designed for conveyance and pollutant removal only.

(23) "Land development" or "development" means any of the following activities:

(a) Structural development, including the construction of a new building or other structures or improvements;

(b) The expansion or alteration of an existing structure resulting in an increase in the surface dimensions of the building or structure;

(c) Land disturbing activities; or

(d) The creation, construction, installation, or expansion of impervious surfaces.

(24) "Land disturbing activities" means any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff, including, but not limited to, tilling, removal of ground cover or other vegetation, grading, excavating, and filling of land.

(25) "Land Division Code" means Chapter 4 of the Village's Code of Ordinances adopted for the purpose of regulating land division and platting.

(26) "Landowner" or "owner of property" means any person having any pecuniary interest in lands regulated by this Chapter.

(27) "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 performance standards may vary based on the performance standard and site conditions.

(28) "New land development" means any land development activities occurring after the effective date of this Chapter.

(29) "Non-erosive velocity" means a rate of stormwater runoff which does not erode soil. The non-erosive velocity will vary from site to site, and is dependent on topography,

soil type, and runoff rates. Non-erosive velocity is usually measured in units of feet per second.

(30) "Off-site" means located outside the property boundary described in the permit application.

(31) "On-site" means located within the property boundary described in the permit application.

(32) "Peak flow" means the maximum rate of flow of water at a given point on a site, in a channel, watercourse, or conduit resulting from a predetermined storm or flood event.

(33) "Perennial stream" means any stream that is depicted as a continuous blue line on the most recent United States Geological Survey 7.5 minute topographic quadrangle maps (scale 1:24,000) or which is determined by the DNR, La Crosse County Zoning Administrator, or the Director of La Crosse County Department of Land Conservation following a site-specific evaluation. This definition shall not apply to streams within a development area or area of infill and redevelopment that have been piped or converted legally and intentionally into stormwater conveyance channels such that the stream does not resemble or maintain the characteristics of a natural stream channel, as determined by the Department.

(34) "Permit" means a written authorization issued by the Department to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(35) "Permittee" means any person to whom a permit is issued under this Chapter.

(36) "Person" means any natural person, partnership, limited liability company, association, syndicate, corporation, trust, or any other legal entity.

(37) "Pervious surface" means any land cover which permits precipitation to soak into the ground.

(38) "Plan" means an erosion control plan required by Section 16.08, a stormwater management plan required by Section 16.09, or a plan combining all of the required elements and standards of an erosion control plan and a stormwater management plan filed with the Village for the purpose of securing a combination permit as defined in Section 16.07.

(39) "Pollutant" refers to any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical waste, biological material, radioactive substance, discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water as provided in s. 283.01, Wis. Stats.

(40) "Pollution" refers to human-made or human-induced alteration of the chemical, biological, physical, or radiological integrity of water as provided in s. 283.01, Wis. Stats.

(41) "Post-development" refers to the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan. This term is used to match pre- and post-development stormwater peak flows as required by this Chapter.

(42) "Pre-development" refers to the extent and distribution of land cover types present before the initiation of the proposed land development activity, assuming all land uses prior to land disturbing activity are in "good" condition as described in Natural Resources Conservation Service Technical Release 55, "Urban Hydrology for Small Watershed" (commonly known as TR-55). This term is used to match pre- and post-development stormwater peak flows as required by this Chapter. In the situation where cumulative impervious surface created after the adoption of this ordinance exceeds the 20,000 square foot threshold, the pre-development conditions shall be those prior to the proposed land disturbance.

(43) "Recharge" means the portion of the average annual rainfall that infiltrates the soil and becomes groundwater. Recharge does not include evaporation, transpiration, or runoff from the site.

(44) "Redevelopment" means any construction, alteration or improvement exceeding four thousand square feet of land disturbance performed on sites where the entire existing site is predominantly developed as commercial, industrial, institutional or multifamily residential uses. Projects may include a mix of redevelopment and new impervious surfaces. New impervious surfaces added as a result of redevelopment are subject to s. 16.05.

(45) "Responsible party" means any person or entity holding fee title to the property or acting as the owner's representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMPs and other approved elements of stormwater plans and permits under this ordinance. The responsibility of an owner's representative concludes upon completion of the representative's contractual obligations with the owner.



(46) "Runoff" means the portion of rainfall, melted snow, irrigation water, or other precipitation which flows across the ground surface of a site and is eventually returned to lakes, streams, rivers, or other bodies of water.

(47) "Runoff Curve Number (RCN)" has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

(48) "Sediment" means solid earth material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion, and has come to rest on the earth's surface at a different site.

(49) "Sedimentation" means the deposition of eroded soils at a site different from the one where the erosion occurred.

(50) "Sheet and fill erosion" means a loss of soil caused by sheet flow or shallow concentrated flow, and characterized by an absence of channeling or a relatively uniform loss across the exposed upper layer of the soil or shallow irregular scouring of the soil surface.

(51) "Shoreland Zone" means all lands in the unincorporated areas of La Crosse County which are within 1,000 feet of the ordinary high water mark of navigable lakes, ponds, flowages; or within 300 feet of the ordinary high water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater.

(52) "Site" means the bounded area described in an erosion control plan, a stormwater management plan, or a plan combining all of the required elements and standards of an erosion control plan and a stormwater management plan filed with the Village for the purpose of securing a combination permit as defined in Section 16.07(1)(a).

(53) "Slope" means the net vertical rise over horizontal run, expressed as a percentage that represents a relatively homogeneous surface incline or decline over the area disturbed.

(54) "Soil loss rate" means the rate, usually measured in tons per acre per year, at which soil is transported beyond the perimeter of a given control site and which occurs as a result of sheet and rill erosion. This term does not apply to soil movement resulting from concentrated flow such as gully or bank erosion.

(55) "Stop work order" means an order issued by the Village Administrative Authority.

(56) "Storm events" means the amount of precipitation which occurs over a 24-hour period and has a specified recurrence interval for the location of the property. For example, 10-year and 100-year storm events refer to the precipitation totals which occur over a 24-hour period which have respective recurrence intervals of 10-years and 100-years.

(57) "Stormwater" means the surface flow of water resulting from, and occurring during and immediately following a precipitation event.

(58) "Storm sewer" means a closed, usually subsurface pipe or conduit which is used specifically for conveying captured stormwater.

(59) "Stormwater drainage facility" means any constructed element in a stormwater drainage system.

(60) "Stormwater drainage system" means all of the facilities used for conducting stormwater to, through or from a drainage area to the point of final outlet, including but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, streets, storm sewers, and pumping stations.

(61) "Stormwater management measures" mean any measure taken, including the construction or installation of structural management practices, to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality after land development activities.

(62) "Stormwater runoff" means the waters derived from rains falling or snow or ice melting within a drainage area, flowing over the surface of the ground and collected in channels, watercourses, or conduits.

(63) "Street reconstruction" means removal and replacement of the road subgrade, where existing stormwater drainage facilities are modified.

(64) "Structural management practices" mean any improvements made for land stabilization to control or prevent erosion and sedimentation and the management of stormwater runoff, including, but not limited to, gully control structures, grass waterways, riprap, detention and retention basins, sediment basins, flood retention dams, diversions, and lining channels with rock, concrete or other materials.

(65) "Structure" means any human-made object with form, shape and utility, either permanently or temporarily attached to, placed upon, or set into the ground, streambed, or lakebed.

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

(67) "Total maximum daily load" (TMDL) means the amount of pollutants specified as a function of 1 or more water quality parameters that can be discharged per day into a water quality limited segment and still insure attainment of the applicable water quality standard. There are 4 components to the total maximum daily load: point source allocation, non-point source allocation, reserve capacity and margin of safety.

(68) "Unnecessary hardship" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with regulations unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

(69) "Water Quality Management Area" means:

(a) Area within 1,000 feet of the ordinary high water mark of navigable waters that consist of a lake, pond or flowage;

(b) Area within 300 feet of the ordinary high water mark of the navigable waters of a river or stream;

(c) Area with potential to be direct conduits for groundwater contamination;

(d) Area of direct runoff from animal waste to surface water.

(70) "Wetlands" mean an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic vegetation and which has soils indicative of wet conditions. Wetlands include natural, mitigation, and restored wetlands.

(71) "WPDES permit" means a Wisconsin pollutant discharge elimination system permit issued under Chapter 283 of the Wisconsin Statutes.

(72) "Zoning Code" refers to Chapter 3 of the Village's Code of Ordinances, which is adopted for the purpose of regulating the use of land.

**16.04 Erosion Control Permits - When Required.**

(A) Unless expressly exempted by Section 16.06, an erosion control permit under Section 16.07 shall be required for, and all construction site erosion control provisions of this Chapter shall apply to, any of the following activities:

(1) Any land disturbing activity in excess of 4,000 square feet on slopes less than 20%;

(2) Any land disturbing activity in excess of 2,000 square feet on slopes 20% and greater;

(3) Any land disturbing activity involving the excavation or filling, or a combination of excavation and filling, of material in excess of 400 cubic yards;

(4) Any land disturbing activity that disturbs more than 100 lineal feet of road ditch, grass waterway, or other land area where the surface drainage flows in a defined open channel, including the placement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel. In the case of emergency, utility repair work may commence prior to receiving the erosion control permit;

(5) Any site required by La Crosse County or the Village Administrative Authority to obtain an Erosion Control Permit;

(6) Any development of a parcel subject to the requirements of, and regulated by, the Village's Land Division Code;

(7) Any other sites as determined by the Village Administrative Authority where severe actual or potential erosion problems warrant corrective action.

**16.05 Stormwater Control Permits - When Required.**

(A) Unless expressly exempted by Section 16.06, a stormwater control permit under Section 16.07 shall be required for, and all stormwater management provisions of this Chapter shall apply to, any of the following activities within the Village:

(1) Any new land development resulting in the cumulative addition of 21,780 square feet (0.5 acres) of impervious surface on a parcel as of the implementation date of this ordinance. Notwithstanding the foregoing, the stormwater management standards of this Chapter, including the requirement of a stormwater control permit, may apply to a new land development resulting in the cumulative addition of less than 21,780 square feet of impervious surface area if Paragraph (5) applies;

(2) Agricultural development that creates new impervious surface area exceeding 21,780 square feet (0.5 acres) within a water quality management area;

(3) A subdivision plat;

(4) A certified survey map or any other land development activity that may ultimately result in the addition of 21,780 square feet (0.5 acres) or more of impervious surfaces, including smaller individual sites that are part of a common plan of development that may be constructed at different times;

(5) Any redevelopment as defined in Section 16.03(44);

(6) The private development of a road which will become public;

(7) Any site involving one (1) acre or more of land disturbing activity;

(8) Any other activity if the Village Administrative Authority determines that such activity may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution, or property damage, or may affect a lake, stream, creek, wetland area, or adjacent properties. All such determinations by the Village Administrative Authority shall be made in writing unless waived by the applicant.

#### **16.06 Exemptions and Clarifications.**

(A) All Requirements. The following activities are exempt from all requirements of this Chapter:

(1) Any activity directly related to the planting, growing and harvesting of agricultural crops, unless such activity, as determined by the Village Administrative Authority, may result in undue erosion of or sedimentation on any adjoining property, may significantly affect a lake, stream, creek, or wetland area, or may otherwise endanger the downstream property owners or their property. All such determinations by the Village Administrative Authority shall be made in writing unless waived by the affected property owner;

(2) Land development and land disturbing activities exempted by state or federal law, including highway construction and other projects conducted by a state agency;

(3) Municipal road or county highway projects where all of the following conditions are met:

(a) All activity takes place within an existing public right-of-way;

(b) The project does not include the addition of new driving lanes;

(c) The project does not replace an open channel with a pipe except where needed under a driveway or road;

(d) Less than one (1) acre of land disturbance occurs;

(4) Land disturbing activity directly involved in the installation and maintenance of private on-site waste disposal systems;

(5) Underground utility construction such as water, sewer, and fiber optic lines;

(6) A project that is designed and/or certified by the La Crosse County Department of Land Conservation or the Natural Resource Conservation Service as part of a soil conservation or water pollution control project;

(B) Runoff Rate Control Exemptions. Section 16.09(B) of this Chapter does not apply to the following, except the Application for Exemption must be completed:

(1) A post-construction site that directly discharges into the La Crosse River or Lake Neshonoc provided the impervious area does not exceed one (1) acre. If the final project will create more than one (1) acre of impervious area, the peak stormwater runoff rate from the ten (10) year 24-hour event shall be no more than the pre-development stormwater runoff rate for a ten (10) year 24-hour storm event. Documentation as to the safe passage of the 100-year storm event shall be provided;

(2) A redevelopment post-construction site, including a transportation facility that is part of a redevelopment project;

(3) If redevelopment occurs on a site developed after October 1, 2004, the redevelopment site shall be required to reduce or maintain the previous development's peak runoff flow rate for the 1-year and 2-year 24-hour rain events;

(4) An in-fill development area less than five (5) acres;

(5) A highway reconstruction or minor road reconstruction site;

(6) If applicant can provide documentation that the site is internally drained and will not discharge runoff from the site after development occurs;

(7) Areas of the post-construction site in hydrologic soil group A, if the requirements of paragraph (E) cannot be met, due to not being allowed to infiltrate because of very coarse sand and the potential for groundwater pollution;

(8) Land development with less than ten (10%) percent of the site planned to be impervious and the cumulative area of all impervious areas is less than one (1) acre using the final build out condition.

(C) Water Quality - Post Construction Exemptions. If design cannot achieve the applicable total suspended solids reduction specified, an Application for Exemption must be submitted.

(D) Erosion Control. The following activities are exempt from the construction site erosion control provisions of Sections 16.04, 16.07 and 16.08:

(1) Projects specifically exempted from local erosion control ordinances under state or federal statute. It is the responsibility of the landowner to demonstrate such exemption with documentation acceptable to the Village Administrative Authority;

(2) Agriculture development not subject to 16.05(A)(2);

(3) Municipal road or county highway projects not exempted under 16.06(B)(2) are exempt from 16.09(B)(2)C. where all the following conditions are met:

(a) The purpose of the project is only to meet current state or federal design or safety guidelines;

(b) All activity takes place within existing public right-of way;

(c) All requirements of 16.09 are met; and

(d) The project does not include the addition of new driving lanes.

(E) Infiltration Rate Control Exemptions. The following activities are exempt from infiltration standards described in 16.09(B)(2)(e):

(1) Redevelopment sites;

(2) New development sites with less than ten (10%) percent connected imperviousness based on complete development of the post construction site, provided the cumulative area of all impervious surface is less than one acre;

- (3) Agricultural facilities and practices;
- (4) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the proposed infiltration system where the soil layer is not easily removed or manipulated;
- (5) Parking areas and access roads less than 50,000 square feet for commercial and industrial developments;
- (6) Roads in commercial, industrial land uses, and arterial roads.

**16.07 Erosion and Stormwater Control Permits and Administration**

(A) Definitions. Whenever used in this Section, the term "Combination permit" means a single permit issued for any land development activity requiring both an erosion control permit and a stormwater control permit, provided the requirements and standards for each such permit as specified under this Chapter are met. Such permit shall be designated as an erosion and stormwater control permit. When applying for a combination permit, the applicant shall file a single plan combining and meeting all of the requirements and standards specified under Subsection (C)(3) and (4).

(B) Permit as a Condition Precedent. Unless expressly exempted by this Chapter, no person may undertake or commence any activity (i) meeting the criteria described in Section 16.04 or Section 16.05 or (ii) deemed subject to the requirements of this Chapter under Section 16.06 without first obtaining from the Village under this Section the permit specifically required for such activity. Such required permit may be either an erosion control permit, a stormwater control permit, or, if appropriate, a combination permit.

(C) Application. Unless specifically excluded by this Chapter, any responsible party applying for a permit shall submit the following to obtain an erosion control permit, a stormwater control permit, or, if appropriate, a combination permit:

- (1) A completed application for the permit sought. The application must be signed by the landowner or include a notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent and to submit the application on the landowner's behalf. Such notarized statement shall also clearly state that the landowner agrees to be bound by all of the requirements of this Chapter and the terms of any permit issued to the agent. By signing the



application, the landowner and, whenever appropriate, the landowner's agent also expressly grant permission to any Village Administrative Authority to enter the property at any reasonable time for the purpose of gathering any information or data needed to assist the Village in evaluating the application and its supporting documentation;

(2) The required permit application fee and fee deposit as specified under Section 16.13;

(3) For either an erosion control permit or a combination permit, an erosion control plan meeting all of the standards of Section 16.08, or a simplified checklist as described in Section 16.08;

(4) For either a stormwater control permit or a combination permit, a stormwater management plan meeting all of the standards of Section 16.09, and, if appropriate, a draft maintenance agreement as described in Section 16.09;

(5) A proposed timetable and schedule for completion and installation of all elements of the proposed plan and a detailed schedule for completion of construction. This shall include a proposed timetable for installation of BMP's indicated in the approved erosion control and/or stormwater management plans;

(6) An estimate of the cost of completion and installation of all elements of the proposed plan;

(7) Evidence of financial responsibility to complete the work proposed in the plan. As a condition of permit approval, the Village may require the filing of a financial security instrument sufficient to guarantee completion of the project. If the Village intends to accept dedication of the improvements after completion, the filing of such a security shall be mandatory in accordance with the Development Agreement;

(8) Copies of permits or permit applications or approvals required by any other governmental entity;

(9) Except for the financial security instrument, if later required, all items listed in Paragraph (1)(C)(1) through (8) shall be submitted at the same time that the completed application for either an erosion control permit, a stormwater management permit, or a combination permit is filed.

(D) Application Review Process.

(1) The Village Administrative Authority shall verify that the permit application, including the supporting documentation as required by Subsection (C), is complete and that proposed plan complies with the standards identified in either Section 16.08 or Section 16.09, or both. If the Village

Administrative Authority determines after such review that the proposed plan is deficient in any manner or that additional information is needed to evaluate the plan, the Village Administrative Authority shall notify the applicant of such deficiency or of the need for additional information. Within twenty (20) days after the date of such notification, the applicant shall correct the identified deficiencies or furnish the requested information, or both if appropriate. If the applicant fails to timely correct any identified deficiency or submit the requested information, the application shall be deemed denied and no further action will be taken on it. The applicant may then either submit a new application and plan for approval or appeal the determination of the Village Administrative Authority as provided under Section 16.12;

(2) Any stormwater plans meeting the definition as defined in Chapter 20 of the La Crosse County Code of Ordinances requires approval of the La Crosse County Planning, Resources, and Development Committee.

(3) After the application and plan review by the Village Administrative Authority has been completed, and, if appropriate, all identified deficiencies have been corrected and all additionally requested information has been submitted, the Village Administrative Authority may approve or reject the permit request as submitted. The Village Administrative Authority may also approve the permit request subject to certain enumerated conditions, including the correction of any identified deficiencies in the filed plan. The Zoning Administrator shall then notify the applicant of the action taken by the Village Administrative Authority. If a permit is approved conditionally or rejected, the Zoning Administrator shall advise the applicant of the conditions of approval, including the required correction of identified deficiencies in the plan, or the reasons for rejection. If the applicant thereafter corrects all of the identified deficiencies in the plan to the satisfaction of the Village Administrative Authority, the plan shall then be deemed approved, subject to any remaining non-deficiency conditions, if any. Staff engaged in this review and approval process shall be certified where appropriate by the Wisconsin Department of Commerce for this purpose;

(4) If any installed stormwater management measure is to be privately-owned, an affidavit, in recordable form, notifying future prospective purchasers of the existence of a stormwater control or combination permit issued under this Chapter and applicable plan, timetables and potential liability imposed by Subsection for failure to bring the

property into compliance with this Chapter after notification, shall be filed with the La Crosse County Register of Deeds prior to issuance of a stormwater control or a combination permit. Such information shall also be noted on every applicable plat and certified survey map;

(5) Upon the approval of the Village Administrative Authority, or upon the applicant's satisfactory correction of those plan deficiencies identified by the Village Administrative Authority, the permit requested shall be issued by the Village after the applicant has met all other requirements of this Chapter.

(E) Permit Conditions. In addition to any condition that the Village Administrative Authority may impose as part of its approval of the permit, the permittee shall be subject to the following conditions:

(1) The erosion control elements of the plan shall be implemented prior to the start of any land development activity and shall be maintained over the duration of the project. Stormwater management components of the plan shall be maintained in perpetuity. All elements of the plan shall be constructed or installed in full compliance with the plan as approved;

(2) The permittee shall be responsible for the successful implementation and completion of all elements of the approved plan and all costs associated with such project. The permittee shall be liable for all property damage and costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan;

(3) As explicitly provided by the application form, an issued permit shall constitute express permission by the permittee and the landowner for any Village Administrative Authority to enter the property for purposes of inspection under Subsection (6);

(4) All incidental mud-tracking off-site onto adjacent public thoroughfares shall be cleaned up and removed by the end of each working day using proper disposal methods;

(5) The permittee shall be responsible for maintaining all roads, road right-of-ways, streets, and stormwater drainage facilities as specified in the approved plan until they are accepted and become the responsibility of the Village or other governmental entity;

(6) A copy of the approved permit and erosion control plan shall be kept on the project site, in a place readily accessible to contractors, engineers, Village Administrative Authority inspection staff and other authorized personnel;

(7) Permit Duration.

(a) Unless the Village Administrative Authority otherwise stipulates, an approved permit shall be valid for a period of eighteen (18) months from the date of issuance and all work must be completed prior to the expiration date of the permit. The Village Administrative Authority may extend the expiration date of the permit upon finding that such an extension will not cause an increase in erosion, sedimentation, or runoff. The Village Administrative Authority may further modify the plan if necessary to prevent any increase in sedimentation, erosion, or runoff resulting from any extension;

(b) Permit time extension requests must be made in writing and received by the Zoning Administrator at least thirty (30) days prior to the expiration of the permit. A request for a permit time extension shall include a statement explaining the need for a time extension and specify any necessary changes to the plan;

(8) The Village Administrative Authority may revoke any permit granted under this Chapter if it finds that the permittee has misrepresented any material fact in the permit application or plan, has failed to comply with the provisions of this Chapter, has failed to comply with the plan as originally approved or as subsequently modified, or has violated any of the other terms of the permit imposed as a condition of its approval.

(F) Inspections, Security, Acceptance, and Maintenance.

(1) Entry Permitted. A permit issued under this Section shall constitute permission by the permittee and landowner for any Village Administrative Authority to enter the property and inspect any phase of the permitted activity, including any construction or installation work, to confirm its compliance with the approved plan and the requirements of this Chapter;

(2) Erosion Control and Stormwater Management Inspections. The Village Administrative Authority shall perform inspections during the construction or installation phase of any permitted activity to determine the permittee's substantial compliance with the approved plan and the requirements of this Chapter;

(3) Final Inspection - Stormwater Management. Within ten (10) days after the installation of all of the stormwater management measures specified in an approved plan, the permittee shall notify the Zoning Administrator or Village Engineer of such completed installation and submit drawings

documenting the construction to the Village Administrative Authority. The person who designed the stormwater management measures for the permittee shall submit a certification that the constructed stormwater management practices and conveyance systems substantially comply with the specifications included in the approved plan. At a minimum, the certification shall include a set of record drawings comparing the approved stormwater management measures with those constructed. The permittee shall submit any other information as required by the Zoning Administrator or the Village Engineer within 10 days after such request. A Village administrative authority shall then inspect the property to verify compliance with the plan within 10 days after such notification or within 10 days after all additionally requested information has been submitted;

(4) Final Inspection - Erosion Control.

(a) Within ten (10) days after installation of all practices in an approved erosion control plan and achievement of soil stabilization, the permittee shall notify the Village Administrative Authority;

(b) The Village Administrative Authority shall inspect the property to verify compliance with the erosion control plan within ten (10) days of notification of soil stabilization; and

(c) The Village Administrative Authority shall inspect the property to verify compliance within ten (10) days of notification;

(5) Acceptance of Improvements.

(a) Unless the Village provides otherwise, the Village shall accept dedication of all stormwater management measures and conveyance facilities and systems after fully constructed, inspected, and approved. The Village's acceptance of such improvements, however, is further conditioned on the permittee filing lien waivers and appropriate affidavits as evidence that no claims, actions, or demands for damages arising out of or in any way related to the installation of the stormwater management measures and conveyance systems exist and that no monies are owed to any contractor, surveyor, mechanic, subcontractor, materialman, or laborer in connection with the installation;

(b) The Village may, at its option, require the landowner to retain ownership of all stormwater management measures and conveyance facilities and systems and to maintain them after fully constructed, inspected, and approved. Such improvements, however,

shall be subject to periodic Village inspections and, as necessary, Village orders for repairs;

(6) Security.

(a) Partial Release. Upon completion and approval of any improvement, the Village may release a portion of any furnished security if:

(1) A written application for a partial release is filed with the Village Clerk; and

(2) The remaining security will be sufficient to cover any potential corrective work required during the guaranty as determined by the Village Engineer. Under no circumstances shall more than 90% of the furnished security be released before the expiration of the guaranty period;

(b) Guarantee Period. The security furnished by the permittee, whether subject to a partial release or not, shall be retained by the Village for a period of one year following the Village's acceptance of the required improvements to guarantee them against defects in workmanship and materials. If any defect appears during the guaranty period, the permittee shall, at his or her expense, install replacements or perform acceptable repairs. If the permittee fails to do so, the Village may do so and deduct the cost of such work from the security on deposit. Unless defects have appeared and have not been repaired, the Village shall release the security to the permittee upon expiration of the one-year guaranty period.

(G) Permit Transfers.

(1) Definition. For purposes of this Subsection (G), the term "landowner" includes both the current owner of property subject to a permit issued under this Section and the current permittee if the permit was issued to an agent of the property owner, unless the context or subject matter clearly indicates otherwise;

(2) Notification of Plan and Transfer. If a landowner intends to transfer ownership, possession, or control of property subject to an approved, yet uncompleted plan, the landowner shall provide a copy of the plan to the intended successor in interest, inform the intended successor in interest in writing of the current status of compliance with the plan, and notify the Village Administrative Authority in writing of the intended transfer. Until such intended transfer is effectuated, the landowner shall continue to be responsible for controlling soil erosion and runoff and

complying with the requirements of the approved plan and the standards provided in this Chapter;

(3) Method of Transfer.

(a) If a landowner transfers ownership, possession, or control of property subject to an approved, yet uncompleted plan, the outstanding permit shall be deemed null and void, all land development activity shall cease, and the property shall be restored to its original, pre-land development condition subject to the requirements of this Chapter, including the controlling of soil erosion and runoff, unless any of the following conditions is met prior to the actual date of transfer:

(1) Subject to the requirements of Subsections (C) and (D), the transferee files and secures Village Administrative Authority approval of a new permit and plan;

(2) Subject to Subparagraph (2), the Village Administrative Authority agrees to name the transferee as an additional permittee on the outstanding permit and allows the transferee to complete that portion of the approved plan regulating soil erosion and runoff on the transferee's property. As a condition of naming the transferee on the outstanding permit, the Village Administrative Authority may require that the transferee or the landowner furnish an irrevocable letter of credit or certified check in an amount equal to 110% of the estimated cost to complete the work proposed in the approved plan as determined by the Village Administrative Authority, if the landowner was not required to furnish any security at the time the permit was originally issued, or if the previously furnished security by its terms is for any reason rendered void by the transfer. The letter of credit shall be in a form approved by the Village and shall name the Village as the beneficiary. If an approved plan is not completed as proposed, the Village may use the letter of credit or certified check provided by the transferee or landowner to complete the remaining work to achieve plan compliance;

(b) Even if a transferee is named as additional permittee under Subparagraph (C)(1), the Village shall continue to deem the landowner as being equally responsible for controlling soil erosion and runoff and complying with the requirements of the approved plan and

the standards provided in this Chapter until the plan work is completed on the transferee's property.

(H) Plan or Permit Amendments. No approved plan may be modified unless such modification is first approved by the Village Administrative Authority or if either deems a proposed modification to be of a substantial nature.

#### **16.08 Erosion Control Plan Requirements**

(A) Plan Materials. Erosion control plans may include the consideration of the cooperative efforts of adjoining landowners to control the transport of sediment, and except as specifically exempted in Subsection (B), shall include at a minimum the following information unless waived by the Village Administrative Authority:

(1) Property lines, lot dimensions, and limits of disturbed area;

(2) Limits of impervious area including buildings. Include all public and private roads, interior roads, driveways, parking lots, and indicate type of paving and surfacing material;

(3) All natural and artificial water features including, but not limited to, lakes, ponds, streams (including intermittent streams) and ditches; and areas of natural woodland and prairie. The plan must show ordinary high-water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries. A certified flood zone determination and/or wetland delineation may be required at the applicant's expense;

(4) Cross-sections of and profiles of channels, swales, and road ditches;

(5) Culvert sizes;

(6) Direction of flow of runoff;

(7) Watershed size for each drainage area;

(8) Design discharge for ditches and structural measures;

(9) Runoff velocities at points where channelized flow leaves the disturbed area or property;

(10) Fertilizer and seeding rates and recommendations;

(11) Time schedules for stabilization of ditches and slopes;

(12) Description of methods by which sites are to be developed and a detailed land disturbance schedule including time schedules for stabilization of ditches and slopes;



(13) Provision for sequential steps mitigating erosive effect of land disturbing activities to be followed in appropriate order and in a manner consistent with accepted erosion control methodology suitable to proposed sites and amenable to prompt re-vegetation including runoff calculations as appropriate;

(14) Provisions to prevent mud-tracking off-site onto public thoroughfares during the construction period;

(15) Provision to disconnect impervious surfaces, where feasible;

(16) Provisions to prevent sediment delivery to, and accumulation in, any proposed to existing stormwater conveyance systems;

(17) Copies of permits or permit applications required by any other unit of government of agency;

(18) Existing and proposed elevations (referenced to the National Geodetic Vertical Datum of 1929) and existing and proposed contours in the area, where deemed necessary; and

(19) Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features of the site.

(20) All digital modeling, including CAD files, WinSLAMM, and Volume Control Modeling, is to be submitted for the approved design and as-constructed conditions before any Erosion Control Permit, Storm Water Management Permit, or building permit is granted. **(Ord. 515 - 3.21.2023)**

(B) Simplified Plan Checklist.

(1) Applicants may submit erosion control proposals using simplified checklists of standard erosion control practices on a standard form approved by the Village, wherever all of the following conditions exist:

(a) The site does not exceed 20,000 square feet in area; and

(b) The slope of the land does not exceed six percent (6%).

(2) Each submitted simplified plan checklist shall be reviewed by the Village Administrative Authority for completeness and accuracy.

(C) Erosion Control Performance Standards.

(1) The proposed design, suggested location, and phased implementation of the erosion control measures specified in a plan should be designed, engineered and ultimately implemented to achieve those results as provided under Paragraph (2). The Village Administrative Authority shall

evaluate the plan measures to determine they follow currently accepted design criteria and the technical standards specified under Section 16.10 and they will achieve the required results under Paragraph (2);

(2) Standards. The erosion control plan measures shall at a minimum achieve the following results:

(a) Prevent gully and bank erosion;

(b) Limit total off-site permissible annual aggregate soil loss for exposed areas resulting from sheet and rill erosion to an annual, cumulative soil loss rate not to exceed 7.5 tons per acre annually; and

(c) Discharges from new construction sites must have a stable outlet capable of carrying designed flow as required in Section 16.09, at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance of water body;

(3) A plan's compliance with the requirements specified under Paragraph (2) shall be determined by using the U.S. Natural Resources Conservation Service Technical Guide or another commonly accepted soil erosion methodology approved by the La Crosse County Conservationist that considers season of year, site characteristics, soil erodibility, and slope;

(4) For a plan to be approved, its prescribed erosion control measures need not have to attempt to control soil transportation within the boundaries of the applicant's site.

#### **16.09 Stormwater Management Plan Requirements**

(A) Plan Materials. Stormwater management plans shall satisfy all of the requirements in Subsection (B), and shall provide at a minimum the following information unless waived by the Village Administrative Authority:

(1) A narrative describing the proposed project, including an implementation schedule for the planned practices.

(2) Identification of the entity responsible for long-term maintenance of the project.

(3) A map showing the drainage areas for each project site under pre-development land conditions and a map showing the drainage areas for each project site under post-development land conditions.

(4) A summary of runoff peak flow rate calculations, by watershed area, including:

(a) Pre-development peak flow rates and durations for the required design storms;

(b) Post-construction peak flow rates and durations with no detention for the required design storms;

(c) Post-construction peak flow rates and durations with detention for the required design storms;

(d) Assumed runoff curve numbers (RCNs) for pre-development and post-development conditions; and

(e) Time of concentration (Tc) used in calculations.

(5) Details and calculations indicating how the infiltration standards are to be met.

(6) Details and calculations indicating how the water quality standards are to be met.

(7) A completed site plan and specifications, signed by the person who designed the plan. All plans shall be drawn to an easily legible scale, shall be clearly labeled, and shall include, at a minimum, all of the following information unless waived by the Village Administrative Authority:

(a) Property lines and lot dimensions;

(b) All buildings and outdoor uses, existing and proposed, including all dimensions and setbacks;

(c) All public and private roads, interior roads, driveways and parking lots. The traffic patterns and type of paving and surfacing material shall also be shown;

(d) All natural and artificial water features, including, but not limited to, lakes, ponds, streams (including intermittent streams), creeks, and ditches. The ordinary high water marks of all navigable waters, the 100-year flood elevations, and the delineated wetland boundaries, if any, shall be shown. If not available, an appropriate flood zone determination or wetland delineation, or both, shall be prepared by the applicant at his or her expense;

(e) Depth to bedrock;

(f) Depth to seasonal high water table;

(g) The extent and location of all soil types as described in the La Crosse County Soil Survey, slopes exceeding 30%, and areas of woodland or prairie;

(h) Existing and proposed elevations (referenced to the North American Vertical Datum of 1988, where available) and existing and proposed contours in the area requiring a grading and filling permit;

(i) Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project;

(j) Soil erosion control and overland runoff control measures, including runoff calculations as appropriate;

(k) Detailed construction schedule;

(l) Copies of permits or permit applications required by any other governmental entity or agency;

(m) Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features;

(n) Location of all stormwater management practices;

(o) All existing and proposed drainage features;

(p) The location and area of all proposed impervious surfaces; and

(q) The limits and area of the disturbed area.

(r) All digital modeling, including CAD files, WinSLAMM, and Volume Control Modeling, is to be submitted for the approved design and as-constructed conditions before any Erosion Control Permit, Storm Water Management Permit, or building permit is granted.

**(Ord. 515 - 3.21.2023)**

(8) A description of the methods to control oil and grease or written justification for not providing such control;

(9) Engineered designs for all structural management practices;

(10) If the stormwater management measures once installed are to be privately owned, a maintenance plan and schedule for all permanent stormwater management measures as would be recorded on the affidavit required in Section 16.07(4)(c).

(11) A proposed timetable and schedule for completion and installation of all elements of stormwater management plans;

(12) An estimate of the cost of completion and installation of all elements of the approved erosion control and stormwater management plans;

(13) Evidence of financial responsibility to complete the work proposed in the plan. The Village Administrative Authority may require a financial security instrument sufficient to guarantee completion of the project;

(14) Construction inspection schedule for engineered features, such as detention basins and infiltration devices. The components of the checklist shall be dated and signed by the person responsible for the construction checks; and,

(15) A completed stormwater management application checklist.

(B) Stormwater Management Performance Standards.

(1) Generally. The proposed design, suggested location, and phased implementation of the stormwater management measures specified in a plan should be designed, engineered and ultimately implemented to achieve the results as provided under Paragraph (b). The Village Administrative Authority shall evaluate the plan measures to determine that they follow currently accepted design criteria and the technical standards specified under Section 16.10 and that they will achieve the required results under Paragraph (2).

(2) Standards.

(a) Sediment Control.

(1) For new development, the applicant shall design the stormwater management measures to retain soil particles greater than 5 microns on the site (80% reduction) resulting from a one-year 24-hour storm event (2.5 inches over 24-hour duration), according to approved procedures, and assuming no sediment resuspension.

(2) For redevelopment resulting in exposed surface parking lots and associated traffic areas, the applicant shall design the stormwater management measures to retain soil particles greater than 20 microns on the entire site (40% reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment resuspension. Under no circumstances shall the existing sediment control level or trapping efficiency of the site be reduced as a result of the redevelopment.

(b) Outlets. Discharges from land development activities must have a stable outlet capable of carrying the designed flow as required in Subparagraph 4, at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to a stormwater conveyance or water body.

(c) Runoff Rate Control - Hydrologic Calculation. All runoff calculations shall be according to the methodology described in the Natural Resources Conservation Service's Technical Release 55, "Urban Hydrology for Small Watersheds" (commonly known as TP-55), or other methodology approved by the Village Administrative Authority. For agricultural land subject

to this section, the maximum runoff curve number (RCN) used in such calculations shall be 51 for HSG A, 68 for hydrologic soil group B, 79 for HSG c, and 84 for HSG D. The TR-55- specified curve numbers for other land uses shall be used. Heavily disturbed sites will be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no modification. Where practices have been implemented to restore soil structure to pre-development conditions, not permeability class modification is required.

(d) Runoff Rate Control - Design Standards. For all storm events, refer to Atlas 14 to obtain accurate values for the site. Except for redevelopment projects, all stormwater facilities shall be designed, installed and maintained to effectively accomplish the following:

(1) Maintain predevelopment peak runoff rates for 2-year, 24-hour storm event (2.9 inches over 24-hour duration).

(2) Maintain predevelopment peak runoff rates for the 10, year, 24-hour storm event (4.2 inches over 24-hour duration).

(3) Detain the 100-year, 24-hour storm event (6.0 inches over 24-hour duration).

(e) Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following requirements. Exemptions and Prohibitions addressing both source locations and BMP treatment locations are located in section 16.06(5).

(1) Development Disturbing One (1) or More Acres

(i) New Development with 10% to 40% Connected Imperviousness. Practices shall be designed to infiltrate sufficient runoff volume so the post-developed infiltration volume shall be at least 90% of the pre-development infiltration volume, based upon average annual rainfall. However, when designing appropriate infiltration systems, no more than 1% of the site is required to be used as effective infiltration area.

(ii) New Development with More Than 40% and Up to 80% Connected Imperviousness. Practices shall be designed to infiltrate sufficient runoff volume so that the post development infiltration volume shall be at least 75% of the pre-development infiltration volume, based on an average annual rainfall.

However, when designing appropriate infiltration systems, no more than 2% of the site is required to be used as effective infiltration area.

(iii) New Development with More Than 80% Connected Imperviousness. Practices shall be designed to infiltrate sufficient runoff volume so the post-developed infiltration volume shall be at least 60% of the pre-development infiltration volume, based on average annual rainfall. However, when designing appropriate infiltration systems, no more than 2% of the site is required to be used as effective infiltration area.

(2) All Development Disturbing Less Than One (1) Acre - The appropriate standard in subs. (3)(a) above or the following shall be met:

(i) Residential development shall infiltrate 25% of the post-development runoff from the 2 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 TR55. No more than 1% of the project site is required as an effective infiltration area; and,

(ii) Non-residential development, including commercial, multifamily, industrial and institutional development, shall infiltrate 10% of the post-development runoff from the 2 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 TR55. No more than 2% of the project site is required as an effective infiltration area.)

(3) Pre-Development Conditions. It shall be assumed "good hydrologic conditions" exist for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55.

(4) Pre-treatment Required. Prior to infiltrating runoff from parking lots or from new road construction in commercial, industrial and institutional areas, pre-treatment shall be

required. The pre-treatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality.

(5) Prohibitions. Notwithstanding subparagraphs 1. through 3., infiltration systems may not be installed in any of the following areas:

(i) Areas associated with tier 1 industrial facilities identified in s. NR 216.21 (2)(a), Wis. Admin. Code. including storage, loading, rooftop and parking.

(ii) Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Admin. Code.

(iii) Fueling and vehicle maintenance areas.

(iv) Areas within 1,000 feet UP gradient or within 100 feet down gradient of Karst features.

(v) Areas with less than three feet separation distance from bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except that this provision does not prohibit infiltration of roof runoff.

(vi) 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.

(vii) Areas within 400 feet of a community water system well as specified in s.NR 811.16(4). Wis. Admin. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

(viii) Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Admin. Code, are present in the soil through which infiltration will occur.

(ix) Any area where the soil does not exhibit one of the following characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 5 foot soil layer with 10%



finer or greater. This provision does not apply where the soil medium within the infiltration system provides an equivalent level of protection and does not prohibit infiltration of roof runoff.

(6) Alternate use of runoff. 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 section.

(7) Minimizing groundwater pollution. According to ch. NR 151, Wis. Admin. Code, infiltration systems designed in accordance with this section 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 ch. NR 140, Wis. Admin. Code. However if site-specific information indicates that compliance with the preventive action limit is not achievable, the infiltration system may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

(f) Projects regulated by Chapter 14 must comply with the following regulations.

(1) In this paragraph, "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. However, in this paragraph, "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.

(i) For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s.NR 103.04, 75 feet.

(ii) 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, 50 feet.

(iii) For lakes, 50 feet.

(iv) For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph 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.

(v) For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

(vi) In sub d. a. i., iv. and v., 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 s. NR 103.03.

(vii) For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

(2) This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.

(3) The following requirements shall be met:

(i) 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.

(ii) 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% 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. Non-vegetative 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.

Note: It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover may be measured using the line transect method described in the university of Wisconsin extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

(iii) Best management practices such as filter strips, swales or wet detention basins that are designed to control pollutants from non-point sources may be located in the protective area.

Note: Other regulations, such as ch. 30, Stats., and chs, NR 103, 115, 116 and 117 and their associated review and approval process may apply in the protective area.

(4) Exemptions: This paragraph does not apply

to:

(i) Redevelopment post - construction sites.

(ii) In-fill development areas less than 5 acres.

(iii) Structures that cross or access surface waters such as boat landing, bridges and culverts.

(iv) Structures constructed in accordance with s. 59.692 (1v), Stats.

(v) 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. Note: A vegetated protective area to filter runoff pollutants from post - construction sites described in subd. 4. v. is not necessary since runoff is not entering the surface water at that location. Other practices necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state.

(g) Oil and Grease Control. For all stormwater plans for commercial or industrial developments and all other uses where the potential for pollution by oil or grease, or both, exists, the first 0.5 inches of runoff will be treated using the best oil and grease removal technology available. This requirement may be waived by the plan reviewer only when the applicant can demonstrate that installation of such practices is not necessary.

(C) Stormwater Management Goals. The following standards shall be met whenever possible:

(1) For existing development, design practices to retain soil particles greater than 40 microns on the site (20% reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment resuspension.

(2) For street reconstruction, design practices to retain soil particles greater than 20 microns on the site (40% reduction) resulting from a one-year, 24-hour storm event, according to approved procedures, and assuming no sediment resuspension.

(D) Off-site Stormwater Management.

(1) Off-site stormwater management is allowed, provided that provisions are made to manage stormwater by an off-site facility, and provided that all of the following conditions for the off-site facility are met:

(a) The facility is in place;

(b) The facility is designated and adequately sized to provide a level of stormwater control that at least meets the ordinance standards;

(c) The local approval authority is satisfied that the facility has a legally obligated entity responsible for its long-term operation and maintenance.

(2) Standards for stormwater management as established in this ordinance shall apply to off-site facilities.

**16.10 Technical Standards and Specifications.** The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of stormwater practices needed to meet the standards of this chapter:

(A) Technical standards approved by the Wisconsin Department of Natural Resources in accordance with NR 151.31.

(B) Natural Resources Conservation Service's "Wisconsin Field Office Technical Guide, Chapter 4" or its successor.

(C) For modeling purposes the average annual rainfall for Minneapolis, 1959 (March 13- November 4) shall be used.

(D) Federal Highway Administration, Hydraulic Engineering Circular No. 15.

(E) Wisconsin Department of Transportation Facilities Development Manual.

(F) Any other technical methodology approved by the Department. A proposal for alternate method with supporting documentation is to be submitted for review prior to approval.

**16.11 Stormwater Management Maintenance Agreement**

(A) Maintenance Agreement Required. The maintenance agreement shall be required for all permanent stormwater BMP's installed to comply with the requirements of this Chapter. The maintenance agreement shall be independent of all other restrictions or covenants and shall comply with all provisions of this section. The maintenance agreement shall, at a minimum, contain the following information and provisions:

(1) Ownership. Identification of the owner(s) of the land parcel(s) where the stormwater BMP is located. Ownership shall be the same as those assigned maintenance responsibilities under sub. (6), unless otherwise designated in a regional stormwater management plan and approved by the applicable unit(s) of government. All stormwater BMPs that collect runoff from more than 1 lot within a subdivision shall be located on outlots. For all privately owned outlots,

ownership shall be by proportional undividable interest for all properties that are within the control of the applicant and drain to the BMP.

(2) Location. A legal description and survey map of the stormwater BMP location(s), showing associated drainage and any access easements required to maintain the BMP.

(3) Design. Detailed drawings of each stormwater BMP and a general description of its purpose and design, including but not limited to BMP dimensions and elevations, inlet and outlet designs and elevations and the drainage area served by the BMP. Where possible, use as-built survey information.

(4) Maintenance Plan. A description of all long term maintenance activities that will likely be required for each BMP included in the agreement, an estimated time interval between each activity, and a schedule for required inspections.

(5) Access. Authorization shall be required for vehicle access, connecting to a public road right-of-way, to allow for future BMP maintenance work. The access easement shall be passable during conditions that would occur during a 100 year, 24-hour storm.

(6) Maintenance Responsibility. The person(s), organization, municipality, or other entity responsible for long-term maintenance of the stormwater BMP shall be identified and documented. The assignment of maintenance responsibilities for a privately owned stormwater BMP shall, at a minimum, include all properties that are within the control of the permit holder and drain to the BMP.

(7) Inspections. Authorization for access to the property by representatives of the local municipality or their designee and La Crosse County to conduct inspections of the BMP, monitor its performance and maintenance, and notify the designated entity when maintenance or repair activities are necessary. Should the owner(s) or the local municipality request inspections to be performed by the Department after the project has been completed and as-builts approved, a fee will be assessed at the market rate to be paid by whoever requested the inspection. A statement shall also be included that states, upon written notification by the local municipality or their designee, that the entity under sub. (6) shall have a BMP inspection conducted by a qualified professional, file a report and complete any maintenance or repair work recommended in the report as called for in the approved maintenance plan.

(8) Municipal Maintenance. Authorization for the local municipality or their designee to perform any maintenance required if the entity identified under sub. (6) above does

not perform the required activity within the specified time period.

(9) Special Assessment. A statement that the applicable local unit of government may exercise their statutory authority to levy and collect a special assessment or charge for any services carried out relating to sub. (7) or (8);

(10) Binding Agreement. A statement confirming that the entire agreement shall remain binding on all subsequent owners of the property upon which the stormwater BMP is located and that the restrictions shall run with the land and on any other property which is subject to maintenance responsibility in the agreement.

(11) Agreement Modifications. The unit of government named under sub. (9) shall have sole authorization to modify the provisions of the agreement upon 30-day notice to the current owner(s) and other parties responsible for maintenance of the stormwater BMP. Any changes made to the agreement shall comply with this subsection.

(12) Other information as determined to be necessary by the Department to ensure compliance with this ordinance.

(B) Approval and Recording.

(1) Approval. The Department shall review and approve the content of all maintenance agreements.

(2) Recording. Upon certification of compliance by the Department, the maintenance agreement shall be recorded at the La Crosse County Register of Deeds referencing any plat, certified survey or other ownership transfer device pertaining to land which contains the stormwater BMP or is subject to maintenance responsibility in the approved agreement, binding on subsequent owners of the property. No stormwater BMP maintenance agreement shall be recorded prior to Department approval.

(3) Copy. The permit holder shall provide a copy of the recorded agreement, including evidence of the actual recording(s), to the Department as a condition of release of any required financial assurance.

(4) Maintenance Responsibilities Prior to a Maintenance Agreement. The permit holder and other responsible party shall be responsible for the maintenance of all stormwater BMPs prior to permit termination.

(A) Board of Adjustment. The Board of Adjustment created pursuant to s. 17.80 of the La Crosse County Zoning Ordinance pursuant to s. 59.694 and 68.11, Wis. Stats.:

(1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village Administrative Authority in administering this Code;

(2) Upon appeal, may authorize variances from the provisions of this Code, which are not contrary to the public interest, and where, due to special conditions, a literal enforcement of the provisions of the Code 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) Who May Appeal. Any applicant, landowner, land user or aggrieved party may appeal any order, decision or determination made by the Village Administrative Authority relative to sites in which one (1) person has interest.

#### **16.13 Fees**

(A) Ordinary Fees. Plan review fees shall be determined by the Village Administrative Authority and set forth in Appendix "A" Fee Schedule. Only one (1) fee per each plan submitted may be charged except where re-submittal is required.

(B) Re-submittal Fees. Will be assessed at a maximum of 25% of the original permit fee or actual cost, whichever is less.

(C) After-the-Fact Fees.

(1) When a permit is acquired after-the-fact, the fee shall be a minimum of two times the ordinary fee for the project.

(2) When a project involves the removal of material from the property and a permit has not been granted, the permit fee shall be assessed at five times the ordinary fee.

#### **16.14 Violations**

(A) Prohibitions.

(1) Discharges. Except for stormwater and other discharges specifically exempted under sub. (B), no discharge, spilling or dumping of substances or materials shall be allowed into receiving water bodies or onto



driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

(2) Connections. The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this Ordinance, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of connection.

(B) Exemptions. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the stormwater:

(1) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.

(2) Discharges resulting from fire-fighting activities.

(3) Discharges from uncontaminated ground water, potable water sources, roof drains, foundation drain and sump pumps, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been de-chlorinated.

(C) Notice of Violation. Whenever the Village Administrative Authority finds a violation of this section, the Department may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

(1) The elimination of illicit connections or discharges;

(2) That violating discharges, practices, or operations shall cease and desist;

(3) The abatement or remediation of stormwater pollution or contaminated hazards and the restoration of any affected property; and,

(4) Any responsible party that fails to comply with a notice of violation under this Section, shall be subject to further enforcement action under the provisions of Section 16.15.

#### **16.15 Enforcement and Penalties**

(A) The Village Administrative Authority or its designee may issue a Notice of Non-compliance if:

(1) The control plan is not being implemented as approved; or

(2) The conditions of the permit are not being met.

(B) The Village Administrative Authority or its designee may post a stopwork order if:

(1) Any land disturbance regulated under this Code is being undertaken without a permit and approved control plan;

(2) Sediment has left the site;

(3) A Notice of Non-compliance has been issued and the necessary action has not been taken within the time frame indicated on the Notice to comply with the permit's conditions; or

(4) Land disturbance activities are being carried out improperly within restricted development areas.

(C) If the applicant does not cease the land disturbance activity and comply with the control plan or permit conditions within 48 hours after posting the stop-work order, Village Administrative Authority may revoke the permit.

(D) Where no permit has been issued or a stop-work order has been posted, the Village Administrative Authority may require the District Attorney to obtain a cease and desist order, or any other form of injunctive relief as needed.

(E) Upon review of the actions taken, the Village Administrative Authority, or designee may retract the stop-work order or the revocation.

(F) After posting a stop-work order, the Village Administrative Authority may issue a notice of intent to the landowner and land user, if applicable, of the County's intent to perform work necessary to comply with this Code. The County may go on the site and commence the work no sooner than five (5) days after issuing the notice of intent. Exceptions may be granted in emergency situations where the potential for severe off-site damage warrants immediate attention. The cost of the work performed by the County, plus interest, at the rate authorized by the County Board shall be billed to the landowner. In the event a landowner fails to pay the amount due, the County Clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Sec. 66.60(16), Wis. Stats.

(G) Any person, including the land user, violating any of the provisions of this Code may be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense until they comply with the provisions of this Code and may also be enforced by injunction.

(H) If the violation occurs within the restricted development area or within the Shoreland Zone, the Village Administrative Authority may require the land to be restored to its original topographic grade and stabilized according to the Village Administrative Authority's requirements.

#### **16.16 Construction of Chapter**

(A) Rules of Construction. In construing this Chapter, the following rules shall be observed unless construction in accordance with the rule would produce a result inconsistent with the intent of the provision:

(1) All words and phrases not specifically defined in this Chapter shall be construed according to common and approved usage. Technical words and phrases having a peculiar meaning in the law shall be construed according to such meaning.

(2) The singular includes the plural and the plural includes the singular.

(3) The present tense of the verb includes the future when applicable. The future perfect tense includes past and future tenses.

(4) The word "shall" is mandatory, while the word "may" is permissive.

(B) Computation of Time. In computing any period of time prescribed or allowed by this Chapter, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a day that the Village offices are closed, in which event the next day that the Village offices are open shall be treated as the last day of the period.

(C) Severability. If any portion of this Chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.