

STORMWATER ORDINANCE

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10.01 AUTHORITY.

(1) This chapter is adopted under the authority granted by Wis. Stats. §61.354, for villages. This chapter supersedes all provisions of any ordinance previously enacted under Wis. Stats. §59.69, §60.62, §61.35, or §62.23, that relate to Chapter 10. Except as otherwise specified in Wis. Stats. §59.693, §60.627, §61.354, or §62.234, Wis. Stats. §59.69, §60.62, §61.35, or §62.23, applies to this chapter and to any amendments to this chapter.

(2) The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the same governing body.

(3) The Board hereby designates the Director to administer and enforce the provisions of this chapter.

(4) The requirements of this chapter do not preempt more stringent requirements that may be imposed by any of the following:

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

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

(c) 61.354 of the Wisconsin State Statutes.

10.02 FINDINGS OF FACT. The Board finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state located within the Village.

The Board also finds that uncontrolled, post-construction runoff has a significant impact upon water resources and

the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

(1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

(2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.

(3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

(4) Reduce the quality of groundwater by increasing pollutant loading.

(5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

(6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.

(7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

10.03 PURPOSE AND INTENT.

(1) **Purpose.** The general purpose of this chapter is to establish runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

(a) Further the maintenance of safe and healthful conditions.

(b) 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.

(c) 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.

(2) Intent. It is the intent of the Board that this chapter regulates stormwater discharges to waters of the state. This chapter may be applied on a site-by-site basis. The Board recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this chapter 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 or prevent runoff from more than one (1) 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, it is the intent of this chapter that the approved plan be used to identify measures acceptable for the community.

10.04 DEFINITIONS.

(1) Administering Authority. A governmental employee empowered under Wis. Stats. §59.693, §60.627, §61.354, §62.234, that is designated by the Board to administer this chapter.

(2) Agriculture Activity Area. 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.

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

(4) An Individual. Any owner, operator, corporation, partnership, association, municipality, interstate agency, state agency, or federal agency.

(5) Authorized Enforcement Agency. Employees or designees of the Director are hereby designated to enforce this chapter.

(6) Average Annual Rainfall. A calendar year of precipitation, excluding snow, which is considered typical. For purposes of this chapter, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

(7) Best Management Practice or BMP. Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

(8) Business Day. A day the office of the Director that is routinely and customarily open for business.

(9) Cease and Desist Order. A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

(10) Combined Sewer System. A system for conveying both sanitary sewage and stormwater runoff.

(11) Common Plan of Development or Sale. 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 (1) plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

(12) Connected Imperviousness. An impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

(13) Construction Site. An area upon which one (1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development.

(14) Contaminated Stormwater. 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 NR 216 (effective August 1, 2004).

(15) Department (DNR). The Wisconsin Department of Natural Resources.

(16) Design Storm. 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 Village are: one (1) year, two point two inches (2.2"); two (2) year, two point five inches (2.5"); five (5) year, three point two inches (3.2"); ten (10) year, three point seven inches (3.7"); twenty-five (25) year, four point three

inches (4.3"); and one hundred (100) year, five point one inches (5.1").

(17) Development. Residential, commercial, industrial, institutional, or other land uses and associated roads.

(18) Director. The Director of Public Works or his or her designee.

(19) Discharge. As defined in Wis. Stats. Ch 283 (most current edition) when used without qualification includes a discharge of any pollutant. Discharge of pollutant or discharge of pollutants. As defined in Wis. Stats. Ch 283 (most current edition), means any addition of any pollutant to the waters of this state from any point source.

(20) Effective Infiltration Area. 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.

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

(22) Erosion and Sediment Control Plan. A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

(23) Exceptional Resource Waters. Waters listed in s. NR 102.11, Wis. Adm. Code.

(24) Extraterritorial. The unincorporated area within three (3) miles of the corporate limits of a first (1st), second (2nd), or third (3rd) class city, or within one and a half (1½) miles of a fourth (4th) class city or village.

(25) Financial Guarantee. A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Director by the responsible party to assure that requirements of the chapter are carried out in compliance with the stormwater management plan.

(26) Final Stabilization. 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 seventy percent (70%) of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

(27) Governing Body. The Board of the Village of Suamico, Brown County, State of Wisconsin.

(28) Hazardous Materials. 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.

(29) Highway. As found in Wis. Stats. §340.01 (22).

(30) Highway Reconditioning. As found in Wis. Stats. §84.013 (1)(b).

(31) Highway Reconstruction. As found in Wis. Stats. §84.013(1)(c).

(32) Highway Resurfacing. As found in Wis. Stats. §84.013(1)(d).

(33) Illicit Discharge. Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges authorized by a WPDES permit or other discharge not requiring a WPDES permit such as landscape irrigation, individual residential car washing, fire fighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, flows from riparian habitats and wetlands, and similar discharges.

(34) Illicit Connections. An illicit connection is defined as either of the following:

(a) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to 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,

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

(35) Impervious Surface. 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.

(36) Industrial Activity. Activities subject to WPDES industrial permits per NR 216 (effective August 1, 2004) and Wis. Stats. Ch 283 (most current edition).

(37) In-Fill Area. A new development area less than five (5) acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or man-made features where development cannot occur.

(38) Infiltration. The entry of precipitation or runoff into or through the soil.

(39) Infiltration System. 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.

(40) Karst Feature. 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.

(41) Land Disturbing Construction Activity (or Disturbance). Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

(42) Maintenance Agreement. A legal document that provides for long-term maintenance of stormwater management and best management practices.

(43) MEP or Maximum Extent Practicable. 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.

(44) Minor Reconstruction of a Highway. Reconstruction of a highway that

is limited to one and a half (1½) miles in continuous or aggregate total length of realignment and that does not exceed one hundred feet (100') in width of roadbed widening.

(45) Municipality. 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.

(46) Municipal Separate Storm Sewer System (MS4). As defined in Wisconsin Administrative Code NR 216 (effective August 1, 2004), means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

(a) Owned or operated by a municipality.

(b) Designed or used for collecting or conveying stormwater.

(c) Is not a combined sewer conveying both sanitary and stormwater.

(d) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

(47) New Development. 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 pre-development condition is classified as new development. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three (3) classifications as appropriate.

(48) Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.

(49) Off-Site. Located outside the property boundary described in the permit application.

(50) On-Site. Located within the property boundary described in the permit application.

(51) Ordinary High-Water Mark. As found in s. NR 115.03(6), Wis. Adm. Code.

(52) Outfall. The point at which stormwater is discharged to waters of the state or to a storm sewer.

(53) Outstanding Resource Waters. As found in s. NR 102.10, Wis. Adm. Code.

(54) Owner. Any person holding fee title, an easement or other interest in property.

(55) Percent Fines. The percentage of a given sample of soil, which passes through a # 200 sieve.

(56) Performance Standard. A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(57) Permit. A written authorization made by the Director to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(58) Permit Administration Fee. A sum of money paid to the Director by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(59) Pervious Surface. 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.

(60) Pollutant. As found in Wis. Stats. §283.01 (13).

(61) Pollution. As found in Wis. Stats. §281.01 (10).

(62) Pollution Prevention. Taking measures to eliminate or reduce pollution.

(63) Post-Construction Site. A construction site following the completion of land disturbing construction activity and final site stabilization.

(64) Post-Development. The extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.

(65) Pre-Development. 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.

(66) Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(67) Prevention Action Limit. As found in s. NR 140.05(17), Wis. Adm. Code.

(68) Protective Area. As found in Section 10.17 (3) (d) of the Village post-construction stormwater management ordinance.

(69) Redevelopment. 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 pre-development condition is classified as redevelopment. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

(70) Responsible Party. Any entity holding fee title to the property or performing services to meet the performance standards of this chapter through a contract or other agreement.

(71) Routine Maintenance. That portion of a post-construction site where pre-development 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 half (½) of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower half (½) of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three (3) classifications as appropriate.

(72) Runoff. Stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(73) Sediment. Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

(74) Separate Storm Sewer. A conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

(b) Discharges directly or indirectly to waters of the state.

(c) Is not part of a combined sewer system.

(d) Is not draining to a stormwater treatment device or system.

(75) Site. The entire area included in the legal description of the land on which

the land disturbing construction activity is proposed in the permit application.

(76) Stop Work Order. An order issued by the Director which requires that all construction activity on the site be stopped.

(77) Stormwater. Runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

(78) Stormwater Management Plan. 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.

(79) Stormwater Management Plan/Stormwater Pollution Prevention Plan. A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

(80) Stormwater Management System Plan. A comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

(81) Technical Standard. A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(82) Top of the Channel. 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 twelve percent (12%) continually for at least fifty feet (50'). If the slope of the land is twelve percent (12%) or less continually for the initial fifty feet (50'), landward from the ordinary high-water

mark, the top of the channel is the ordinary high-water mark.

(83) TR-55. 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.

(84) Transportation Facility. 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).

(85) Type II Distribution. 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 Wisconsin and represents the most intense storm pattern.

(86) The Village. The Village of Suamico.

(87) Village Stormwater Reference Guide. The most current edition of the *Village of Suamico Stormwater Reference Guide for Post-Construction Stormwater Management and Construction Site Erosion Control* is available at the Village Hall and online at www.suamico.org.

(88) Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(89) Watercourse. A natural or artificial channel through which water flows. These channels include all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Brown County, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

(90) Waters of the State. As found in Wis. Stats. §281.01 (18).

(91) (WPDES) Wisconsin Pollutant Discharge Elimination System Stormwater Discharge Permit. A Wisconsin pollutant discharge elimination system permit issued pursuant to Wis. Stats. Ch. 283. (most current edition).

SUBCHAPTER I – CONSTRUCTION SITE EROSION CONTROL ZONING ORDINANCE

10.05 APPLICABILITY AND JURISDICTION.

(1) Applicability.

(a) This chapter applies to the following land disturbing construction activities except as provided under Sub. (b):

1. A construction site, which has four thousand (4,000) square feet or greater of land disturbing construction activity.
2. A construction site, which has one hundred (100) cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.
3. A construction site, which has fifty (50) linear feet or greater of land disturbance to a highway, street, driveway, swale, ditch, waters of the state, wetland, protective area, or other non-agricultural drainage facility which conveys concentrated flow. Wetlands shall be delineated in accordance with S. NR 103.08(1m).

(b) This chapter does not apply to the following:

1. 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 Chapter 40, Code of Federal Regulations, Part 122, for land disturbing construction activity.
2. Nonpoint Discharges from Agricultural Activity Areas.

3. Nonpoint Discharges from silviculture activities.

4. Roadway milling operations.

(c) Notwithstanding the applicability requirements in Paragraph (a), this chapter applies to construction sites of any size that, in the opinion of the Director, 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.

(2) Jurisdiction. This chapter applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the Village.

(3) Exclusions. This chapter 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).

10.06 TECHNICAL STANDARDS.

(1) Design Criteria, Standards, and Specifications. All BMPs required to comply with this chapter shall meet the design criteria, standards and specifications based on any of the following:

(a) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under Subchapter V of Chapter NR 151, Wis. Adm. Code.

(b) Technical standards and other guidance identified within the Village Stormwater Reference Guide.

(c) For this chapter, 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.

(2) Other Standards. Other technical standards not identified or developed in Sub. (1), may be used provided that the methods have been approved by the Director.

10.07 PERFORMANCE STANDARDS.

(1) Responsible Party. The responsible party shall implement an-erosion and sediment control plan developed in accordance with Section 10.09 that incorporates the requirements of this section.

(2) Plan. A written erosion and sediment control plan shall be developed in accordance with Section 10.09 and implemented for each construction site.

(3) Requirements. The erosion and sediment control plan required shall meet the following minimum requirements to the maximum extent practicable:

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

1. For construction sites with one (1) acre or greater of land disturbing construction activity, BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization. No person shall be required to exceed sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. 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.

2. For construction sites with less than one (1) acre of land disturbing construction activity, reduce the total suspended solids

load using BMPs from the Village Stormwater Reference Guide. These sites are not required to satisfy a numeric performance standard.

(b) Notwithstanding Par. (a), if BMPs cannot be designed and implemented to reduce the sediment load, on an average annual basis, the plan shall include a written and site-specific explanation as to why the reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(c) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. The deposition of soil from being tracked onto streets by vehicles.
2. The discharge of sediment from disturbed areas into on-site storm water inlets.
3. The discharge of sediment from disturbed areas into adjacent waters of the state.
4. The discharge of sediment from drainage ways that flow off the site.
5. The discharge of sediment by dewatering activities.
6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
7. The discharge of sediment from erosive flows at outlets and in downstream channels.
8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. 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 subdivision.
9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

(d) The erosion and sediment control plan shall incorporate all the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
4. Development of spill prevention and response procedures.

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

(5) Alternate Requirements. The Director may establish requirements more stringent than those set forth in this section if the Director determines that an added level of protection is needed for sensitive resources.

10.08 PERMITTING REQUIREMENTS, PROCEDURES, AND FEES.

(1) Permit Required. No responsible party may commence a land disturbing construction activity subject to this chapter without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Director.

(2) Permit Application and Fees. At least one (1) responsible party desiring to undertake a land disturbing construction activity subject to this chapter shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Section 10.09 and shall pay an application fee to the Director. By submitting an application, the applicant is authorizing the Director to enter the site to obtain information required for the review of the erosion and sediment control plan. Fees shall be set from time to time by resolution by the Board.

(3) Review and Approval of Permit Application. The Director 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:

(a) Within ten (10) business days of the receipt of a complete permit application, as required by Sub. (2), the Director shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this chapter.

(b) If the permit application and plan are approved, the Director shall issue the permit.

(c) If the permit application or plan is disapproved, the Director shall state in writing the reasons for disapproval.

(d) The Director may request additional information from the applicant. If additional information is submitted, the Director shall have ten (10) business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(e) Failure by the Director to inform the permit applicant of a decision within ten (10) 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.

(f) Any decision of the Director may be appealed by written request by the applicant to the Village Board of Appeals pursuant to Section 18.24 (3). Said written notice of appeal must be filed with the Board of Appeals within thirty (30) days of the Director's decision or be barred.

(4) Financial Guarantee. As a condition of approval and issuance of the permit, the Director 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.

(5) Permit Requirements. All permits shall require the responsible party to:

(a) Notify the Director within forty-eight (48) hours of commencing any land disturbing construction activity.

(b) Obtain permission in writing from the Director prior to any modification pursuant to Section 10.09 (3) of the erosion and sediment control plan.

(c) Install all BMPs as identified in the approved erosion and sediment control plan.

(d) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.

(e) Immediately repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in weekly inspection reports.

(f) Conduct construction site inspections at least once per week and within twenty-four (24) hours after a precipitation event of a half inch (1/2") or greater. Repair or replace erosion and sediment control BMPs as necessary within twenty-four (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: date, time and location of the construction site inspection; the name of individual who performed the inspection; an assessment of the condition of erosion and sediment controls; a description of any erosion and sediment control BMP implementation and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site.

(g) Allow the Director 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.

(h) The permit applicant shall post the “Certificate of Permit Coverage” in a conspicuous location at the construction site.

(6) Permit Conditions. Permits issued under this section may include conditions established by Director in addition to the requirements set forth in Sub. (5), where needed to assure compliance with the performance standards in Section 10.07.

(7) Permit Duration. Permits issued under this section shall be valid for a period of one hundred eighty (180) days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Director may extend the period one (1) or more times for up to an additional one hundred eighty (180) days. The Director may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this chapter.

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

10.09 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.

(1) Plan Requirements. The erosion and sediment control plan required under Section 10.07 (2) shall comply with *the Village Stormwater Reference Guide* and contain at a minimum the following information:

(a) Name, address, and telephone number of the landowner and responsible parties.

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

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

(d) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities.

(e) Performance standards applicable to site.

(f) Proposed best management practices.

1. The deposition of soil from being tracked onto streets by vehicles.

2. The discharge of sediment from disturbed areas into on-site storm water inlets.

3. The discharge of sediment from disturbed areas into adjacent waters of the state.

4. The discharge of sediment from drainage ways that flow off the site.

5. The discharge of sediment by dewatering activities.

6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

7. The discharge of sediment from erosive flows at outlets and in downstream channels.

8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. 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 subdivision.

9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

(2) Erosion and Sediment Control Plan Statement. For each construction site identified under Section 10.05 (1) (c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Director. 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 the chapter, including the site development schedule.

(3) Amendments. The applicant shall amend the plan if any of the following occur:

(a) 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.

(b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(c) The Director notifies the applicant of changes needed in the plan.

10.10 INSPECTION. If land disturbing construction activities are being carried out without a permit required by this chapter, the Director may enter the land pursuant to the provisions of Wis. Stats. §66.0119(1), (2), and (3).

SUBCHAPTER II – SUAMICO POST-CONSTRUCTION STORMWATER MANAGEMENT ZONING ORDINANCE

10.15 APPLICABILITY AND JURISDICTION.

(1) Applicability.

(a) Where not otherwise limited by law, this chapter applies to all post-construction sites, unless the site is otherwise exempt under Paragraph (b).

(b) A post-construction site that meets any of the criteria in this paragraph is exempt from the requirements of this chapter.

1. One (1) and two (2) family residential dwellings that are not part of a larger

common plan of development or sale and that result in less than one (1) acre of disturbance.

2. Non-point discharges from agricultural activity areas.

3. Non-point discharges from silviculture activities.

4. Mill and crush operations.

(c) Notwithstanding the applicability requirements in Paragraph (a), this chapter applies to post-construction sites of any size that, in the opinion of the Director, 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.

(2) Jurisdiction. This chapter applies to post-construction sites within the boundaries and jurisdiction of the Village.

(3) Exclusions. This chapter 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).

10.16 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 chapter:

(1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under Subchapter V of Chapter NR 151, Wis. Adm. Code.

(2) Technical standards and guidance identified within the Village Stormwater Reference Guide.

(3) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Director.

(4) In this chapter, the following year and location has been selected as average annual rainfall. Green Bay, 1969 (Mar. 29-Nov. 25).

10.17 PERFORMANCE STANDARDS.

(1) **Responsible Party.** The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.

(2) **Plan.** A written stormwater management plan in accordance with Section 10.19 shall be developed and implemented for each post-construction site.

(3) **Maintenance of Effort.** For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.

(4) **Requirements.** The stormwater management plan shall meet the following minimum requirements to the maximum extent practicable:

(a) *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.

1. For post-construction sites with twenty thousand (20,000) square feet or more of proposed impervious surface and/or post-construction sites with one (1) acre or more of land disturbance, the following is required:

a. Reduce the total suspended solids load by eighty percent (80%) for new development.

b. Reduce the total suspended solids load from parking areas and roads by forty percent (40%) for redevelopment.

c. 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.

d. **Off-Site Drainage.** When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

2. For post-construction sites with less than twenty thousand (20,000) square feet of proposed impervious surface, reduce the total suspended solids load using BMPs from *the Village Stormwater Reference Guide*. These sites are not required to satisfy a numeric performance standard.

3. 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.

4. Notwithstanding Subs. 1. to 4., 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.

(b) *Peak Discharge.* BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site as follows:

1. For post-construction sites with twenty thousand (20,000) square feet or more of impervious surface and/or post-construction sites with one (1) acre or more of land disturbance, the following is required:

a. The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the two (2) year, ten (10) year, and one hundred (100) year, twenty-four (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.

b. TR-55 methodology shall be used for peak discharge calculations, unless the administering authority approves an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. Peak pre-development discharge rates shall be determined using the following runoff curve numbers:

Maximum Pre-Development Runoff Curve Numbers				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

2. For post-construction sites with less than twenty thousand (20,000) square feet of impervious surface disturbance, reduce peak post-development discharge rates using BMPs from the Village Stormwater Reference Guide. These sites are not

required to satisfy a numeric performance standard.

3. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

4. An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.

5. Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of this Paragraph (b) provided the transportation facility is not part of a larger common plan of development or sale:

a. 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 one hundredth (0.01) of a foot for the two (2) year, twenty-four (24) hour storm event.

b. A Highway reconstruction site.

6. This subsection of the ordinance does not apply to any of the following:

a. A post-construction site where the discharge is directly into a lake over five thousand (5,000) acres or a stream or river segment draining more than five hundred (500) square miles.

b. Except as provided under 10.17(3), a redevelopment post-construction site.

c. An in-fill development area less than five (5) acres.

(c) *Infiltration.* BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, except as provided in Subds. 8. through 11.

1. For developments with twenty thousand (20,000) square feet or more of impervious surface disturbance and

development with one (1) acre or more of land disturbance, one (1) of the following shall be met:

a. Low imperviousness. For development up to forty (40) percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least ninety (90) percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.

b. Moderate imperviousness. For development with more than forty (40) percent and up to eighty (80) percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least seventy-five (75) percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two (2) percent of the post-construction site is required as an effective infiltration area.

c. High imperviousness. For development with more than eighty (80) percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least sixty (60) percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two (2)

percent of the post-construction site is required as an effective infiltration area.

2. Pre-development 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 “hydrologic soil group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the following runoff curve numbers shall be used:

Maximum Pre-Development Runoff Curve #s – Cropland				
Hydraulic Soil Group	A	B	C	D
Runoff Curve #	56	70	79	83

3. For residential and non-residential developments with less than twenty thousand (20,000) square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the Village Stormwater Reference Guide. These sites are not required to satisfy a numeric performance standard.

4. The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.

5. 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 Subd. 11. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

6. Exclusions. Infiltration of runoff from the following areas are prohibited from

meeting the infiltration requirements of this Paragraph (c):

- a. Areas associated with tier one (1) industrial facilities identified in S. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
- b. Storage and loading areas of tier two (2) industrial facilities identified in S. NR 216.21(2)(b), Wis. Adm. Code.
- c. Fueling and vehicle maintenance areas.
- d. Areas within one thousand feet (1,000') upgradient or within one hundred feet (100') downgradient of Karst features.
- e. Areas with less than three feet (3') separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this Subd. 8.e. does not prohibit infiltration of roof runoff.
- f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet (5') separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
- g. Areas within four hundred feet (400') of a community water system well as specified in S. NR 811.16(4), Wis. Adm. Code, or within one hundred feet (100') of a private well as specified in S. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
- h. Areas where contaminants of concern, as defined in S. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.

Any area where the soil does not exhibit one (1) 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 (3') soil layer with twenty percent

(20%) fines or greater; or at least a five foot (5') soil layer with ten percent (10%) fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This Subd. 8.i. does not prohibit infiltration of roof runoff.

7. Exemptions. Infiltration of runoff from the following areas are not required to meet the infiltration requirements of this Paragraph (c):

- a. Areas where the infiltration rate of the soil is less than six-tenths inch (0.6")/hour measured at the site.
- b. Parking areas and access roads less than five thousand (5,000) square feet for commercial and industrial development.
- c. Redevelopment and routine maintenance areas.
- d. In-fill areas less than five (5) acres.
- e. Infiltration areas during periods when the soil on the site is frozen.
- f. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
- g. Highways provided the transportation facility is not part of a larger common plan of development or sale.

8. 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 paragraph.

9. a. Infiltration systems designed in accordance with this paragraph 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. Adm. Code. However, 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.

b. Notwithstanding Subd. Par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(d) Protective Areas.

1. Protective Area. 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.

a. 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, seventy-five feet (75').

b. For perennial and intermittent streams identified on a United States geological survey seven and a half (7½) minute series topographic map, or a county soil survey map, whichever is more current, fifty feet (50').

c. For lakes, fifty feet (50').

d. For wetlands, fifty feet (50') unless variances and/or permits have been obtained from Brown County, the Department of Natural Resources, and the United States Army Corps of Engineers, as applicable.

e. In Subd. 1a., and d., 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.

f. For concentrated flow channels with drainage areas greater than one hundred thirty (130) acres, ten feet (10').

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

2. Wetlands shall be delineated.

Wetland boundary delineations shall be made in accordance with S. NR 103.08(1m). This Paragraph (d) 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.

3. This Paragraph (d) applies to post-construction sites located within a protective area, except those areas exempted pursuant to Subd. 6 below.

4. The following requirements shall be met:

a. 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.

b. 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 seventy percent (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.

c. 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.

5. A protective area established or created after the adoption date of this chapter shall not be eliminated or reduced, except as allowed in Subd. 6.b, c, or d below.

6. Exemptions. The following areas are not required to meet the protective area requirements of this Paragraph (d):

a. Redevelopment and routine maintenance areas provided the minimum requirements within Subd. 5 above are satisfied.

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

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

d. Post-construction sites from which runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local ordinance requirements for total suspended solids and peak flow reduction, except to the extent that vegetative ground cover is necessary to maintain bank stability.

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

(e) *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.

(f) *Swale Treatment for Transportation Facilities.* This Section 10.17 (3) (f) is not applicable to transportation facilities that are part of a larger common plan of development or sale.

1. Applicability. Except as provided in Subd. 2., 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:

a. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

b. Carry runoff through a swale for two hundred feet (200') or more in length that is designed with a flow velocity no greater than one and a half feet (1½') per second for the peak flow generated using either a two (2) year, twenty-four (24) hour design storm or a two (2) year storm a duration equal to the time of concentration as appropriate. If a swale of two hundred feet (200') in length cannot be designed with a flow velocity of one and a half feet (1½') per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

2. Exemptions. The Director 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 two thousand five hundred (2,500) and where the initial surface water of the state that the runoff directly enters is any of the following:

a. An outstanding resource water.

b. An exceptional resource water.

c. Waters listed in S. 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part due to nonpoint source impacts.

d. Waters where targeted performance standards are developed under S. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(g) *Exemptions.* The following areas are not required to meet the performance standards within Section 10.17 (3):

1. Agricultural production areas with less than one hundred thousand (100,000)

square feet of impervious surface disturbance.

2. 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.

3. The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.

a. Reconditioning or resurfacing of a highway.

b. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within NR 151.24(6) Wisconsin Administrative Code apply to minor reconstruction of a highway.

c. A redevelopment transportation facility with no increase in exposed parking lots or roads.

d. A transportation facility with less than ten percent (10%) connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one (1) acre.

e. Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(5) General Considerations for Onsite and Offsite Stormwater Management Measures. The following considerations shall be observed in managing runoff:

(a) 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.

(b) 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.

(6) Location and Regional Treatment Option.

(a) The BMPs may be located onsite or offsite as part of a regional stormwater device, practice or system, but shall be installed in accordance with s. NR 151.003, Wis. Adm. Code.

(b) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this chapter. Post-construction BMPs may be located in non-navigable surface waters.

(c) Except as allowed under Par. (d), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.

(d) 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 chapter if:

1. The BMP was constructed prior to the effective date of this chapter 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

2. The BMP is designed to provide runoff treatment from future upland development.

(e) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.

1. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.

2. 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 Ch. NR 103, Wis. Adm. Code and Wis. Stats. Ch. 30.

(f) The discharge of runoff from a BMP, such as a wet detention pond or after a series of such BMPs is subject to this chapter.

(g) The Director may approve offsite management measures provided that all of the following conditions are met:

1. The Director determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the Engineer and that contains management requirements consistent with the purpose and intent of this chapter.

2. The offsite facility meets all of the following conditions:

a. The facility is in place.

b. 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 onsite practices meeting the performance standards of this chapter.

c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

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

(7) Alternate Requirements. The Director may establish stormwater management requirements more stringent than those set forth in this section if the Director determines that an added level of protection is needed to protect sensitive

resources. Also, the Director may establish stormwater management requirements less stringent than those set forth in this section if the Director 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 Wisconsin Department of Natural Resources under NR 151 Wisconsin Administrative Code.

10.18 PERMITTING REQUIREMENTS, PROCEDURES, AND FEES.

(1) Permit Required. No responsible party may undertake a land disturbing construction activity for post-construction stormwater management without receiving a post-construction runoff permit from the Director prior to commencing the proposed activity.

(2) Permit Application and Fees. Unless specifically excluded by this chapter, any responsible party desiring a permit shall submit to the Director a permit application made on a form provided by the Director for that purpose.

(a) Unless otherwise excepted by this chapter, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a non-refundable permit administration fee as set from time to time by resolution of the Board.

(b) The stormwater management plan shall be prepared to meet the requirements of Section 10.17 and Section 10.19, the maintenance agreement shall be prepared to meet the requirements of Section 10.20, the financial guarantee shall meet the requirements of Section 10.21, and fees shall be set from time to time by resolution by the Board.

(3) Review and Approval of Permit Application. The Director 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:

(a) Within ten (10) business days of the receipt of a complete permit application, including all items as required by Sub. (2), the Director shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this chapter.

(b) 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 Director shall issue the permit.

(c) If the stormwater permit application, plan or maintenance agreement is disapproved, the Director shall detail in writing the reasons for disapproval.

(d) The Director may request additional information from the applicant. If additional information is submitted, the Director shall have ten (10) 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.

(e) Failure by the Director to inform the permit applicant of a decision within ten (10) 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.

(f) Any decision of the Director may be appealed by written request by the applicant to the Village Board of Appeals pursuant to Section 18.24 (3). Said written notice of appeal must be filed with the Board of Appeals within thirty (30) days of the Director's decision or be barred.

(4) Permit Requirements. All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The Director may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Director to suspend or revoke this permit may be appealed in accordance with Section 18.24 (3).

(a) 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.

(b) The responsible party shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.

(c) The responsible party shall notify the Director at least ten (10) business days before commencing any work in conjunction with the stormwater management plan, and within ten (10) business days upon completion of the stormwater management practices. If required as a special condition under Sub. (5), the responsible party shall make additional notification according to a schedule set forth by the Director so that practice installations can be inspected during construction.

(d) Practice installations required as part of this chapter shall be certified "as built" by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the Director or its designee to determine if they are in accordance with the approved stormwater management plan and chapter. The Director 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.

(e) The responsible party shall notify the Director of any significant modifications it intends to make to an approved stormwater management plan. The Director 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.

(f) 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 or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(g) The responsible party authorizes the Director 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 Section 10.21.

(h) If so directed by the Director, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.

(i) The responsible party shall permit property access to the Director for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.

(j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Director may require the responsible party to make appropriate legal arrangements with affected

property owners concerning the prevention of endangerment to property or public safety.

(k) The responsible party is subject to the enforcement actions and penalties detailed in Section 10.99 (3), if the responsible party fails to comply with the terms of this permit.

(l) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

(5) Permit Conditions. Permits issued under this subsection may include conditions established by Director in addition to the requirements needed to meet the performance standards in Section 10.17 or a financial guarantee as provided for in Section 10.21.

(6) Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the Director notifies the responsible party that all stormwater management practices have passed the final inspection required under 10.18(4)(d).

10.19 STORMWATER MANAGEMENT PLAN.

(1) Plan Requirements. The stormwater management plan required under Section 10.17 (3) shall comply with the Village Stormwater Reference Guide and contain at a minimum the following information:

(a) Name, address, and telephone number of the landowner and responsible parties.

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

(c) Pre-development site map with property lines, disturbed limits, and drainage patterns.

(d) Post-development site map with property lines, disturbed limits, and drainage patterns.

1. Total area of disturbed impervious surfaces within the site.
2. Total area of new impervious surfaces within the site.
3. Performance standards applicable to site.
4. Proposed best management practices.
5. Groundwater, bedrock, and soil limitations.
6. Separation distances. Stormwater management practices shall be adequately separated from wells to prevent contamination of drinking water.

(2) Alternate Requirements. The Director may prescribe alternative submittal requirements for applicants seeking an exemption to onsite stormwater management performance standards under Section 10.17 (3) (a) 4.

10.20 MAINTENANCE AGREEMENT.

(1) Maintenance Agreement Required. The maintenance agreement required under Section 10.18 (2) for stormwater management practices shall be an agreement between the Village 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.

(2) Agreement Provisions. The maintenance agreement shall contain the following information:

- (a) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
- (b) A schedule for regular maintenance of each aspect of the stormwater management system.
- (c) Identification of the responsible parties responsible for long-term maintenance of the stormwater management

practices identified in the stormwater management plan.

(d) Requirement that the responsible parties shall maintain stormwater management practices.

(e) Authorization for the Director 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.

(f) A requirement on the Director 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.

(g) Agreement that the party designated under Par. (c), as responsible for long-term maintenance of the stormwater management practices, shall be notified by the Director of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Director.

(h) Authorization of the Director to perform the corrected actions identified in the inspection report if the responsible party designated under Par. (c) does not make the required corrections in the specified time period. The Director 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.

10.21 FINANCIAL GUARANTEE.

(1) Establishment of the Guarantee. The Director may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Director. The financial guarantee shall be in an amount determined by the Director 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 Director 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 Director that the requirements of this chapter have not been met.

(2) Conditions for Release. Conditions for the release of the financial guarantee are as follows:

(a) The Director shall release the portion of the financial guarantee established under this section, less any costs incurred by the Director to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Director may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(b) The Director shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the Director, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

SUBCHAPTER III – ILLICIT DISCHARGE AND CONNECTION ORDINANCE

10.25 GENERAL.

(1) The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the Village through the regulation of non-stormwater discharges to the MS4 to the maximum extent practicable as required by federal and state

law. This chapter establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this chapter are:

(a) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.

(b) To prohibit illicit connections and discharges to the MS4.

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

10.26 APPLICABILITY. This chapter shall apply to all water entering the MS4 generated on any lands unless explicitly exempted by an authorized enforcement agency.

10.27 ADMINISTRATION. The Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Director may be to persons or entities acting in the beneficial interest of or as an employee of the Village.

10.28 COMPATIBILITY WITH OTHER REGULATIONS. This chapter is not intended to modify or repeal any other chapter, rule, regulation, or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this chapter 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.

10.29 DISCHARGE PROHIBITIONS.

(1) Prohibition of Illicit Discharges.

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater.

(2) Allowed Discharges.

(a) Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.

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

(c) Any non-stormwater discharge permitted under a WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources. Any person subject to such a WPDES stormwater discharge permit shall comply with all provisions of such permit.

(3) Prohibition of Illicit Connections.

(a) The construction, use, maintenance or continued existence of illicit connections to 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 chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

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

(e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Village 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 Village.

10.30 WATERCOURSE PROTECTION.

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

10.31 COMPLIANCE MONITORING.

(1) Right-of-Entry Inspecting and Sampling. The Village shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter.

(a) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Village.

(b) Facility operators shall allow the Village ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

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

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

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

(f) Unreasonable delays in allowing the Village access to a facility are a violation. A person who is the operator of a facility commits an offense if the person denies the Village reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.

(2) Special Inspection Warrant. If the Village has been refused access to any part of the premises from which stormwater is discharged, and the Director is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Village may seek issuance of a special inspection warrant per Wis. Stats. §66.0119.

10.32 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE

STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The owner or operator of any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, or waters of the state shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and constructural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a Stormwater Management Plan (SWMP)/Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance.

10.33 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in 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. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Village 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 Village within two (2) 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 onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five (5) years. Failure to provide notification of a release as provided above is a violation of this chapter.

10.34 VIOLATIONS. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public

safety, the Village 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 Village is authorized to seek costs of the abatement as outlined in Section 10.28.

(1) Warning Notice. When the Village finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, the Village may serve upon that person a 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 the subsection shall limit the authority of the Village to take action, including emergency action or any other enforcement action without first issuing a warning notice.

(2) Notice of Violation. Whenever the Village finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Village may order compliance by written notice of violation to the responsible person. The notice of violation shall contain:

- (a) The name and address of the alleged violator;
- (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;

(e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(f) A statement that the determination of violation may be appealed to the Village by filing a written notice of appeal within three (3) days of service of notice of violation; and a statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator. 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.

10.35 SUSPENSION OF MS4 ACCESS.

(1) Emergency Cease and Desist Orders. When the Village finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Village 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 chapter 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. 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 Village may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, 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 Village may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Village that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this chapter. 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 Village within three (3) days of receipt of the prerequisite for, taking any other action against the violator.

(2) Suspension Due to Illicit Discharges in Emergency Situations. The Village 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 Village may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(3) Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Village will notify a violator of the proposed termination of its MS4 access. The violator may petition the Village for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the Village.

10.36 COST OF ABATEMENT OF THE VIOLATION. Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the Village, the charges shall become a special charge against the property and shall constitute a lien on the property.

10.37 VIOLATIONS DEEMED A PUBLIC NUISANCE. Any condition in violation of any of the provisions of this chapter and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

10.38 REMEDIES NOT EXCLUSIVE. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Village to seek cumulative remedies. The Village may recover all attorney fees court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

10.39 FEE SCHEDULE. The permitting fees for this chapter shall be as set from time to time by resolution by the Board. A schedule of the fees established by the Board shall be available for review at Village Hall.

10.99 PENALTY, SEVERABILITY, ENFORCEMENT, AND APPEALS.

(1) Penalty. Any person who violates, or knowingly allows or permits any violation of, any provision of this chapter shall be subject to a forfeiture of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500) per violation. Failure or refusal to pay forfeiture may result in imprisonment for a period of not more than ninety (90) days for each offense. A separate offense and violation shall be deemed committed on each day on which a violation occurs.

(2) Severability. If any section, clause, provision or portion of this chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the chapter shall remain in force and not be affected by such judgment.

(3) Enforcement.

(a) The Director may post a stop-work order if any of the following occurs:

1. Any land disturbing construction activity regulated under this chapter 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 Director 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 Director, or if a responsible party violates a stop-work order posted under Sub. (1), the Director may request the Village Attorney to obtain a cease and desist order in any court with jurisdiction.

(d) The Board of Appeals may retract the stop-work order issued under Sub. (1) or the permit revocation under Sub. (2).

(e) After posting a stop-work order under Sub. (1), the Director may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this chapter. The Director 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 Director, plus interest at the rate authorized by 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) Compliance with the provisions of this chapter 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.

(g) Enforcement of this chapter shall be the responsibility of the Board or its designee, and/or Village Police Department.

(h) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this chapter by any person, firm, association, or corporation subject to the chapter provisions shall be deemed a violation unless conducted in accordance with the requirements of this chapter.

(i) The Director shall notify the responsible party by certified mail of any non-complying 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.

(j) Upon receipt of written notification from the Director under Sub. (2), 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 Director in the notice.

(k) If the violations to a permit issued pursuant to this chapter are likely to result in damage to properties, public facilities, or waters of the state, the Director may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Director plus interest and legal costs shall be billed to the responsible party.

(4) Appeals.

(a) *Board of Appeals.* Appeals are heard by the Village Board of Appeals established under Section 18.24 (3) of the Village Code.

(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 Director.

Village of Suamico

Chapter 10

Ordinance 2008-14 Creating Chapter 10 Stormwater Ordinance

Adopted 6-2-08

Ordinance 2016-08 Amending Chapter 10 Stormwater of the Village Code

Adopted 5-16-16