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FORM 2

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-026

AN ORDER to create chapter NR 152, relating to model ordinances for construction site erosion control and storm water management.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

02-10-00 RECEIVED BY LEGISLATIVE COUNCIL.
03-07-00 REPORT SENT TO AGENCY.

RNS:DD:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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CLEARINGHOUSE RULE 00-026

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. Section 281.33 (5), Stats., requires the department, municipalities and all state agencies to cooperate to accomplish the objective of s. 281.33, Stats. The department, among other things, is required to consult with the governmental bodies of municipalities to secure voluntary uniformity of regulations, so far as practicable, and is required to prepare model ordinances. While consultation with the major organizations representing municipal governments is not expressly required in connection with the model ordinances in this rule, it is suggested that the department consult with those organizations before the rule is promulgated to obtain the benefit of their review and comment, if the department has not already done so.

b. Although the page numbers will be deleted when the rule is promulgated, it is suggested that "of 49" replace "of 2" in subsequent drafts.

c. Note that, because of the format of the rule, the review of and comments on the rule depart from the usual standard and method of review and comment, particularly in connection with the form and style of the rule. Further, to the extent that the model ordinances do not meet local needs or circumstances, local governments are, of course, free to revise the model ordinances or decline to use them at all.

d. Section NR 152.01 (3) should be placed in the note to the section.

e. In general, it appears that the model ordinance for storm water management zoning is more thoughtfully drafted, better organized and more complete than the model ordinance for construction site erosion control zoning. (Although the model storm water management ordinance may itself be subject to criticism for, among other things, being excessively detailed.) It is suggested that the department review the model ordinances to make them more compatible concerning drafting, organization, style and completeness.

f. In general, the model ordinances should be reviewed for consistency in format, consistency in use of subunit titles and consistency and appropriateness of punctuation.

g. The following general comments apply to the model construction site erosion control zoning ordinance:

- (1) It is suggested that a note follow s.03 to explain the significance of the alternatives presented in that section.
- (2) It is suggested that s.04 (5) and (6) be reviewed and compared for compatibility.
- (3) In s.07 (1) (intro.), it is suggested that the clause read as follows: "This section applies to the following land disturbing construction activity, excluding that otherwise regulated under ss. Comm 21.125 and Comm 50.115, Wis. Adm. Code:".
- (4) It is suggested that pars. (a) to (f) of s.07 (1) begin with "Activity" rather than "Those."
- (5) s.07 (2) does not indicate who is required to design, install, apply and maintain best management practices. It is suggested that pars. (a) and (b) of s.07 (2) be combined. It appears that the second sentence of par. (f) of s.07 (2) should read: "By the end of the next working day following the occurrence, off-site sediment deposition occurring as a result of a storm event shall be cleaned up." It appears that "the requirements of" should follow "achieve" in s.07 (2) (h).
- (6) Consideration should be given to relocating that portion of s.08 that relates to the permit requirement near the beginning of the model ordinance. It is suggested that the provisions of s.08 that relate to the erosion and sediment control plan and to permit issuance be given separate section status.
- (7) It appears that the title to s.08 (1) is intended to contain substance. In general, the title of rules and statutes do not represent substance. The substance of the title should be located in the text. See also, in this regard, the title to s.08 (2).
- (8) s.08 (1) (b) 7. is unclear.

- (9) s.08 (1) (c), first sentence, should read: "If permanent infiltration systems are used, the erosion and sediment control plan shall require appropriate on-site testing to be conducted to determine if seasonal high water is within 5 feet of the bottom of the proposed practice." In the next sentence, "to be" can be deleted.
- (10) In s.08 (1) (e), second sentence, it appears that "existing" should be deleted and "under par. (d)" added following "map." In s.08 (1) (f), it appears that the sentence should begin with: "The erosion and sediment control plan shall require that velocity dissipation devices be placed"
- (11) In s.08 (3), to what does erosion and control plan "statement" refer? In par. (c), "of" should be deleted.
- (12) In s.08 (4) (L), "enforcement actions and penalties" should replace "enforceable actions."
- (13) In s.10 (2), a bracket should follow the first use of "authority."
- (14) In s.10 (3), it appears that "posed" should be "posted." It also appears that mention should be made in that subsection of the county corporation counsel and town attorney.
- (15) Attention should be paid to consistent and appropriate use of "permittee," "landowner," and "land user" in s.10.

h. The following comments relate to the model storm water management zoning ordinance:

- (1) In s.03 (2), on page 21, line 19, "a" should be inserted before "more."
- (2) The rule should be reviewed to determine whether the numerous definitions in s.04 are actually utilized in the rule.
- (3) In s.05 (2), a note should be added to explain the significance of the alternatives offered under that section.
- (4) In the first sentence of s.07 (1) (intro.), should "best" precede "management"? In the last sentence, to what do "all of the following" apply?
- (5) In s.07, the bold type should be deleted.
- (6) In s.07 (1) (c) 3., the introductory clause should read: "This paragraph does not apply to the following areas and conditions:".
- (7) It is suggested that pars. (a) and (b) of s.07 (2) be combined.

- (8) In s.07 (2) (c), last sentence (line 10), it appears that there is a word missing.
- (9) In s.08 (2) (a), the language following “by” and ending before the colon may be deleted.
- (10) Compare the last sentence of s.10 (1) with “maintenance agreement” in s.04 (18).
- (11) In s.10 (2) (f), it appears that “shall” should be deleted in both instances and replaced by “to.”
- (12) s.10 (2) (g) is awkwardly drafted.

1 ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
2 CREATING RULES
3

4 The Natural Resources Board proposes an order to create ch. NR 152 relating to model
5 ordinances for construction site erosion control and storm water management.

6
7 WT-9-00
8

9 Analysis Prepared by Department of Natural Resources
10

11 Statutory authority: ss. 227.11 and 281.33(4), Stats.

12 Statutes interpreted: s. 281.33, Stats.
13

14 Creation of chapter NR 152 is an integral part of promulgating a series of inter-related
15 administrative rules to implement a re-design of Wisconsin's nonpoint source programs. Other
16 related components of this effort that are being conducted concurrently include: repeal and
17 recreation of chapter NR 120, Nonpoint Source Pollution Abatement Program; creation of chapter
18 NR 151, Runoff Management; creation of chapter NR 153, Runoff Management Grant Program;
19 creation of chapter NR 154, Best Management Practices, Technical Standards and Cost Share
20 Conditions; revision of chapter NR 216, Storm Water Discharge Permits; repeal and recreation of
21 chapter NR 243, Animal Feeding Operations. The department of agriculture, trade and consumer
22 protection is concurrently revising ATCP 50, Soil and Water Resource Management, to
23 incorporate changes in its programs.
24

25 Pursuant to s. 281.33, Stats., the department has developed model ordinances for construction site
26 erosion control and storm water management and is submitting these ordinances for legislative
27 review. Under s. 281.33(4), Stats., these model ordinances are required to be in the form of an
28 administrative rule subject to s. 227.19, Stats., and other provisions of chapter 227, Stats., that
29 apply to administrative rules. Following legislative review, the department is required to make
30 these ordinances available to local units of government for voluntary adoption.
31

32 The purpose of chapter NR 152 is to submit these ordinances to the legislature for required
33 review and to direct the department to distribute them upon request. The ordinances are included
34 with the rule as attachments, which allows the department to properly format the ordinances for
35 local use. The performance standards contained in chapter NR 151 for construction site erosion
36 control and post-construction control of storm water runoff have been incorporated into the model
37 ordinances along with some additional narrative requirements added to meet the intent of s.
38 281.33, Stats. Land use activities to which the ordinances apply are slightly broader than those }
39 covered under chapter NR 151 because of specific applicability requirements contained in s.
40 281.33, Stats.
41

1 SECTION 1: Chapter NR 152 is created to read:

2
3 **Chapter NR 152**

4
5 **MODEL ORDINANCES FOR CONSTRUCTION SITE EROSION CONTROL**
6 **AND STORM WATER MANAGEMENT**
7

8 **NR 152.01 Purpose.** (1) This chapter includes 2 model ordinances that the
9 department is required to prepare under s. 281.33(4), Stats. One is a model ordinance for
10 construction site erosion control at sites where construction activities do not include the
11 construction of a building. The other is a model ordinance for storm water management.
12 These ordinances are prepared in accordance with s. 281.33, Stats. The purpose of
13 making these model ordinances available to local units of government is to secure so far
14 as practicable the voluntary uniformity of local regulations developed to meet the intent
15 of s. 281.33(1), Stats. Appendix A contains the state model construction site erosion
16 control zoning ordinance and appendix B contains the state model storm water
17 management zoning ordinance.

18 (2) The department of natural resources shall distribute a copy of the model
19 construction site erosion control zoning ordinance and a copy of the model storm water
20 management zoning ordinance to any city, village, county or town that submits a request
21 for the document, as required by s. 281.33(4), Stats.

22 (3) Requests for model ordinances may be submitted to the Department of Natural
23 Resources, Runoff Management Section, Box 7921, Madison, WI 53707-7921.

24 **Note:** Adoption by a city, county, village or town of either model ordinance in its
25 entirety is voluntary. However, there may be other administrative rules that require
26 consistency of local regulations with specific portions of the model ordinance.

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APPENDIX A

MODEL CONSTRUCTION SITE EROSION CONTROL ZONING ORDINANCE

see note to ordinance in Appendix B

FOREWORD

not clear what → see s. 07(1) UnPro.

The intent of this ordinance is to require best management practices to reduce the amount of sediment and other pollutants leaving construction sites as a result of land disturbing construction activities that do not involve the construction of a building. Use of this ordinance will foster consistent, statewide application of the non-agricultural performance standards developed by the Department of Natural Resources under s. 281.16(2), Wis. Stats.

S.01 AUTHORITY.

This ordinance is adopted under the authority granted by [s. 59.693, Wis. Stats., for counties; s. 62.234, Wis. Stats., for cities; s. 61.354, Wis. Stats., for villages; s. 60.627, Wis. Stats., for towns].

S.02 FINDINGS AND PURPOSE.

(1) **FINDINGS.** The [county, city, town or village governing board] finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state and this [county, city, town or village].

(2) **PURPOSE.** It is the purpose of this ordinance to preserve the natural resources; to protect the quality of the waters of the state and the [county, city, town, or village]; and to protect and promote the health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to lakes, streams and wetlands.

S.03 APPLICABILITY OF ORDINANCE.

1 This ordinance applies to [land disturbing construction activity on construction sites located
2 within the boundaries and jurisdiction of the [county, city, village, or town]].

3
4 or

5
6 [land disturbing and land developing activities on lands within the boundaries and jurisdiction of
7 the [county, city, village, or town]. This ordinance applies to the division of land within the
8 boundaries of the [county, city, village, or town] and within its extra territorial plat approval
9 jurisdiction under ch. 236, Wis. Stats.]

10
11 or

12
13 [land disturbing and land developing activities on lands within the boundaries and jurisdiction of
14 the [county, city, town or village]. This ordinance applies to all lands located within the
15 extraterritorial plat approval jurisdiction of [county, city, village, or town], even if plat approval is
16 not involved.]

17
18 S.04 DEFINITIONS.

19
20 (1) "Agricultural land use" includes use of land for planting, growing, cultivating and harvesting
21 of crops for human or livestock consumption and pasturing or yarding of livestock, including sod
22 farms and tree nurseries, but does not include the construction of buildings or facilities used for
23 agriculture.

24
25 (2) "Best management practice" or "BMP" means a practice, technique or measure which is
26 determined to be an effective means of preventing or reducing runoff pollutants to waters of the
27 state, to a level compatible with the pollution control requirements in s.07(2) of this ordinance.

28
29 (3) "COMM" means the Wisconsin department of commerce.

30
31 (4) "Construction site" means an area upon which one or more land disturbing
32 construction activities are occurring, including areas that are part of a larger common
33 plan of development or sale where multiple separate and distinct land disturbing

1 construction activities may be taking place at different times on different schedules but
2 under one plan.

3

4 (5) "Erosion" means the detachment and movement of soil, sediment or rock fragments by
5 water, wind, ice or gravity.

6

7 (6) "Erosion and sediment control plan" means a comprehensive plan developed to
8 address pollution caused by soil erosion and sedimentation during construction.

9

10 (7) "Final stabilization" means that all land disturbing construction activities at the
11 construction site have been completed and that a uniform perennial vegetative cover has
12 been established with a density of 70% of the cover for the unpaved areas and areas not
13 covered by permanent structures or that employ equivalent permanent stabilization
14 measures.

15

16 (8) "Land disturbing construction activity" means any man-made change of the land
17 surface resulting in a change in the topography, existing vegetative and non-vegetative
18 soil cover or the existing soil topography which may result in storm water runoff and lead
19 to increased soil erosion and movement of sediment into waters of the state. Land
20 disturbing construction activity includes, but is not limited to clearing and grubbing,
21 demolition, excavating, pit trench dewatering, filling and grading activities, but does not
22 include agricultural land uses or silviculture activities.

23

24 (9) "Landowner" means any person holding title to or having an interest in land.

25

26 (10) "Land user" means any person operating, leasing, renting, or having made other
27 arrangements with the landowner by which the landowner authorizes use of his or her land.

28

29 (11) "Maximum extent practicable" means a level of implementing best management
30 practices in order to achieve a performance standard which takes into account the best
31 available technology, cost effectiveness and the degree or extent to which best
32 management practices can be implemented. Maximum extent practicable allows

1 flexibility in the ways to meet the performance standards and will vary based on the
2 performance standard and site conditions.

3
4 (12) "Municipal storm sewerage facility" means catch basins, storm sewer pipes, pumps
5 and lift stations.

6
7 (13) "Runoff" means the rainfall, snow melt, or irrigation water flowing over the ground
8 surface.

9
10 (14) "Site" means the entire area included in the legal description of the land on which the land
11 disturbing construction activity is proposed in the permit application.

12
13 (15) "Waters of the state" has the meaning in s. 281.01 (18), Wis. Stats. 

14
15 S.05 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR BEST
16 MANAGEMENT PRACTICES (BMPs).

17
18 All BMPs required to comply with this ordinance shall meet the design criteria, standards and
19 specifications for the BMPs based on accepted design criteria, standards and specifications
20 identified in the *Wisconsin Construction Site Best Management Practice Handbook*, WDNR Pub.
21 WR-222 November 1993 Revision.

22
23 S.06 MAINTENANCE OF BMPs.

24
25 All BMP measures necessary to meet the requirements of this ordinance shall be maintained by
26 the applicant for a permit issued under s.08 or subsequent landowner throughout the duration of
27 the construction activities until the site has undergone final stabilization.

28
29 S.07 CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBING
30 CONSTRUCTION ACTIVITY

31

1 (1) GENERAL APPLICABILITY. These general applicability provisions apply to the following
2 land disturbing construction activity, excluding that otherwise regulated under ss. COMM 21.125
3 and COMM 50.115, Wis. Admin. Code.

4
5 **Note:** The Wisconsin Department of Commerce is drafting COMM 65, which would replace the
6 erosion control provisions of COMM 50.115.

7
8 (a) Those involving grading, removal of protective ground cover or vegetation, excavation,
9 land filling or other activity affecting a surface area of 4,000 square feet or more;

10
11 (b) Those involving excavation or filling or a combination of excavation and filling
12 affecting 400 cubic yards or more of dirt, sand or other excavation or fill material;

13
14 (c) Those involving street, highway, road, or bridge construction, enlargement, relocation or
15 reconstruction;

16
17 (d) Those involving the laying, repairing, replacing or enlarging of an underground pipe or
18 facility for a distance of 300 feet or more;

19
20 (e) Those requiring a subdivision plat approval or

21
22 (f) Those requiring a certified survey.

23
24 (2) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. Design, install,
25 apply and maintain BMPs to the maximum extent practicable in accordance with an erosion and
26 sediment control plan designed to limit sediments and other pollutants from entering waters of the
27 state or municipal storm sewerage facilities. The BMPs may be located on or off the construction
28 site but shall achieve the required pollutant control prior to the discharge entering waters of the
29 state or municipal storm sewerage facilities. The BMPs shall be designed to reduce pollutants
30 from the construction site to the maximum extent practicable including, but not limited to, pars.
31 (a) through (h).

32
33 (a) Control sediment carried in runoff to reduce the annual average sediment load by 80% as
34 compared to no sediment controls unless a lower level of control is justified under

1 par. (b).
2

3 **Note:** Achieving this standard will have the effect of achieving about a 60% annual average load
4 reduction for phosphorus. The percent sediment control may be higher on sandy soils sites and
5 lower on clayey soil sites.
6

7 (b) If 80 percent of the average annual sediment load will not be controlled from the site by
8 design, then the erosion and sediment control plan shall include a reasonable justification for not
9 controlling 80 percent of the annual average sediment load from the site as compared to no
10 sediment controls.
11

12 (c) Minimize tracking of sediment from the site onto roads and other paved surfaces. Each
13 site shall have graveled roads, access drives and parking areas of sufficient width and length
14 to prevent sediment from being tracked onto public or private roadways. Any sediment
15 reaching a public or private road shall be removed by street cleaning (not flushing) before
16 the end of each workday. Sediment tracked by construction equipment from a site onto a
17 public or private paved road or sidewalk shall be minimized by providing a non-tracking
18 access roadway. The access roadway shall be installed as approved on the plan. The
19 sediment cleanup provisions of (f) below are unaffected by the presence or absence of an
20 access roadway.

21 (d) Assure proper use, storage and disposal of chemicals, cement and other compounds used
22 on construction sites. All building material waste shall be properly managed and disposed
23 of to prevent pollutants and debris from being carried off site by runoff.
24

25 (e) Minimize the discharge of sediment as part of site de-watering
26

27 (f) Clean up sediments deposited on roadways. The end of the next working day following
28 the occurrence, clean up off-site sediment deposition occurring as a result of a storm event.
29 All other off-site sediment deposition occurring as a result of construction activities shall be
30 cleaned up at the end of the workday.
31

32 (g) Provide storm sewer inlet protection. All downslope storm sewer inlets shall be
33 protected.
34

see requirements

1 (h) Other measures necessary to achieve par. (a).

2

3 S.08 PERMIT - APPLICATION, EROSION AND SEDIMENT CONTROL PLAN, AND
4 PERMIT ISSUANCE

5

6 No landowner or land user may commence a land disturbing construction activity subject to this
7 ordinance without receiving prior approval of an erosion and sediment control plan for the site
8 and a permit from the [administering authority]. At least one landowner or land user controlling
9 or using the site and desiring to undertake a land disturbing construction activity subject to this
10 ordinance shall submit an application for a permit and an erosion and sediment control plan and
11 pay an application fee of [amount] to the [administering authority]. By submitting an application,
12 the applicant is authorizing the [administering authority] to enter the site to obtain information
13 required for the review of the erosion and sediment control plan.

1 (1) CONTENT OF THE EROSION AND SEDIMENT CONTROL PLAN FOR LAND
2 DISTURBING CONSTRUCTION ACTIVITIES COVERING ONE OR MORE ACRES.

3
4 (a) The erosion and sediment control plan shall be prepared in accordance with good
5 engineering practices and the design criteria, standards and specifications outlined in the
6 *Wisconsin Construction Site Best Management Practice Handbook* (WDNR Pub. WR-222
7 November 1993 Revision).

8
9 (b) The erosion and sediment control plan shall address pollution caused by soil erosion and
10 sedimentation during construction and up to final stabilization of the site. The erosion and
11 sediment control plan shall include, at a minimum, the following items:

- 12
13 1. Description of the site and the nature of the construction activity, including
14 representation of the limits of land disturbance on a USGE 7.5 minute series topographic
15 map.
- 16
17 2. Description of the intended sequence of major activities which disturb soils for major
18 portions of the site, such as grubbing, excavation or grading.
- 19
20 3. Estimates of the total area of the site and the total area of the site that is expected to be
21 disturbed by construction activities.
- 22
23 4. Estimates, including calculations, if any, of the runoff coefficient of the site before
24 and after construction activities are completed.
- 25
26 5. Existing data describing the surface soil as well as subsoils.
- 27
28 6. Depth to groundwater, as indicated by natural resources conservation service soil
29 information where available, except when permanent infiltration systems are used, the
30 depth to groundwater shall be as outlined in par. (c). 
- 31
32 7. Name of the immediate named receiving water from the United States geological
33 service 7.5 minute series topographic maps.

1 (c) When permanent infiltration systems are used, the erosion and sediment control plan
2 shall specify appropriate on-site testing shall be conducted to determine if seasonal high
3 water is within 5 feet of the bottom of the proposed practice. If permanent infiltration
4 structures are to be used and there is a municipal well within 400 feet, or a non-public well
5 within 100 feet, the groundwater flow shall be identified in accordance with the provisions
6 specified in either ch. NR 110 or 214, Wis. Admin. Code.

7
8 (d) The erosion and sediment control plan shall include a site map. The site map shall
9 include the following items and shall be at a scale not greater than 100 feet per inch and at a
10 contour interval not to ~~exceed~~ exceed five feet.

- 11
12 1. Existing topography, vegetative cover, natural and engineered drainage systems,
13 roads and surface waters. Lakes, streams, wetlands, channels, ditches and other water
14 courses on and immediately adjacent to the site shall be shown. Any identified 100-
15 year flood plains, flood fringes and flood ways shall also be shown.
- 16
17 2. Boundaries of the construction site.
- 18
19 3. Drainage patterns and approximate slopes anticipated after major grading activities.
- 20
21 4. Areas of soil disturbance.
- 22
23 5. Location of major structural and non-structural controls identified in the plan.
- 24
25 6. Location of areas where stabilization practices will be employed.
- 26
27 7. Areas which will be vegetated following construction.
- 28
29 8. Wetlands, area extent of wetland acreage on the site and locations where storm
30 water is discharged to a surface water or wetland.
- 31
32 9. Locations of all surface waters and wetlands within one mile of the construction
33 site.
- 34
34 10. Alphanumeric or equivalent grid overlying the entire construction site map.

1 *The*
2 (e) ~~Each~~ erosion and sediment control plan shall include a description of appropriate
3 controls and measures that will be performed at the site to prevent pollutants from
4 reaching waters of the state. The plan shall be at the same scale as the existing site map *under part*
5 and shall clearly show the site changes. The plan shall clearly describe the appropriate
6 control measures for each major activity and the timing during the construction process
7 that the measures will be implemented. The description of erosion controls shall include,
8 when appropriate, the following minimum requirements:

9
10 1. Description of interim and permanent stabilization practices, including a practice
11 implementation schedule. Site plans shall ensure that existing vegetation is preserved
12 where attainable and that disturbed portions of the site are stabilized.

13
14 2. Description of structural practices to divert flow away from exposed soils, store
15 flows or otherwise limit runoff and the discharge of pollutants from the site. Unless
16 otherwise specifically approved in writing by the [administering authority], structural
17 measures shall be installed on upland soils.

18
19 3. Management of overland flow at all sites, unless otherwise controlled by outfall
20 controls.

21
22 4. Trapping of sediment in channelized flow.

23
24 5. Staging construction to limit bare areas subject to erosion.

25
26 6. Protection of downslope drainage inlets where they occur.

27
28 7. Minimization of tracking at all sites.

29
30 8. Clean up of off-site sediment deposits.

31
32 9. Proper disposal of building and waste materials at all sites.

33
34 10. Stabilization of drainage ways.

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11. Control of soil erosion from dirt stock piles.

12. Installation of permanent stabilization practices as soon as possible after final grading.

13. Minimization of dust to the maximum extent practicable..

(f) *Plan shall require...*
Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(g) If 80 percent of the sediment will not be controlled, by design, from the area of land disturbing construction activity, then the erosion and sediment control plan shall include a reasonable justification for not controlling 80 percent of the sediment from the area of land disturbing construction activity as compared to no sediment controls.

Note: The plan requirements of this subsection will meet the plan requirements of section NR 216.46, Wis. Admin. Code when prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the *Wisconsin Construction Site Best Management Practice Handbook* (WDNR Pub. WR-222 November 1993 Revision). This is important for municipalities seeking to develop a "Qualifying Local Program" under phase 2 of the federal storm water permit program. Qualifying local programs will also be required to impose, either through this ordinance or a storm water management ordinance, storm water management plan requirements consistent with section NR 216.47, Wis. Admin. Code. *[Signature]*

(2) CONTENT OF THE EROSION AND SEDIMENT CONTROL PLAN STATEMENT FOR LAND DISTURBING CONSTRUCTION ACTIVITIES COVERING LESS THAN ONE ACRE. A control plan statement (with simple map) that briefly describes the site and best management practices (including the site development schedule) that will be used to meet the requirements of the ordinance shall be submitted to the [administering authority].

*n = 200
of substance*

~~Department of Public Works~~

Permits
Department

1 (3) REVIEW OF THE EROSION AND SEDIMENT CONTROL PLAN. Within 45 days of
2 receipt of the application, erosion and sediment control plan or control plan statement, and fee the
3 [administering authority] shall review the application and control plan to determine if the
4 requirements of this ordinance are met. The [administering authority] may request comments
5 from other departments or agencies. If the requirements of this ordinance are met, the
6 [administering authority] shall approve the plan, inform the applicant and issue a permit. If the
7 conditions are not met, the [administering authority] shall inform the applicant in writing and may
8 either require needed information or disapprove the plan. Within 30 days of receipt of needed
9 information, the [administering authority] shall again determine if the plan meets the
10 requirements of this ordinance. If the plan is disapproved, the [administering authority] shall
11 inform the applicant in writing of the reasons for the disapproval.

12
13 (4) PERMITS. ← what permit? see 5.08 later

14
15 (a) Duration. ^A Permits issued under this section shall be valid for a period of 180 days, or
16 the length of the building permit or other construction authorizations, whichever is longer,
17 from the date of issuance. The [administering authority] may extend the period one or more
18 times for up to an additional 180 days. The [administering authority] may require additional
19 BMPs as a condition of the extension if they are necessary to meet the requirements of this
20 ordinance.

21
22 (b) Surety bond. As a condition of approval and issuance of the permit, the [administering
23 authority] may require the applicant to deposit a surety bond or irrevocable letter of credit to
24 guarantee a good faith execution of the approved control plan and any permit conditions.

25
26 (c) Permit conditions. All permits shall require the permittee to: ^{OK?}

- 27
28 1. Notify the [administering authority] within 48 hours of commencing any land
29 disturbing construction activity.
30
31 2. Notify the [administering authority] of completion of any BMPs within 14 days after
32 their installation.

33

1 3. Obtain permission in writing from the [administering authority] prior to modifying the
2 erosion and sediment control plan.

3
4 4. Install all BMPs as identified in the approved erosion and sediment control plan;

5
6 5. Maintain all road drainage systems, stormwater drainage systems, BMPs and other
7 facilities identified in the erosion and sediment control plan.

8
9 6. Repair any siltation or erosion damage to adjoining surfaces and drainage ways
10 resulting from land disturbing construction activities and document repairs in a site
11 erosion control log.

12
13 7. Inspect the BMPs after each rain of 0.5 inches or more and at least once each week,
14 make needed repairs and document the findings of the inspections in a site erosion
15 control log with the date of inspection and the name of the person conducting the
16 inspection.

17
18 8. Allow the [administering authority] to enter the site for the purpose of inspecting
19 compliance with the erosion and sediment control plan or for performing any work
20 necessary to bring the site into compliance with the control plan; and

21
22 9. Keep a copy of the erosion and sediment control plan at the construction site.

23
24 S.09 INSPECTION.

25
26 (1) The [administering authority] shall inspect any construction site that holds a permit under
27 s.08 at least once a month during the period starting March 1 and ending October 31 and at least 2
28 times during the period starting November 1 and ending February 28 to ensure compliance with
29 the approved sediment and erosion control plan.

30
31 (2) If land disturbing construction activities are being carried out without a permit required by
32 this ordinance, the [administering authority] may enter the land pursuant to the provisions of ss.
33 66.122 and 66.123, Wis. Stats.

34 

1 S.10 ENFORCEMENT.

2

3 (1) The [administering authority] may post a stop-work order if:

4

5 (a) Any land disturbing construction activity regulated under this ordinance is being
6 undertaken without a permit;

7

8 (b) The erosion and sediment control plan is not being implemented in a good faith manner;
9 or

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

11

12 (2) If the permittee does not cease activity as required in a stop-work order posted under this
13 section or fails to comply with the erosion and sediment control plan or permit conditions within
14 10 days of being notified by the [administering authority], the [administering authority] may
15 revoke the permit.

16

17 (3) If the landowner or land user where no permit has been issued does not cease the activity
18 within 10 days of being notified by the [administering authority], or if a landowner violates a
19 stop-work order posed under sub. (1), the [administering authority] may request the [district
20 attorney, city attorney, or village attorney] to obtain a cease and desist order in any court with
21 jurisdiction.

22

23 (4) The [administering authority] or the board of appeals may retract the stop-work order issued
24 under sub. (1) or the permit revocation under sub. (2).

25

26 (5) 10 days after posting a stop-work order under sub. (1), the [administering authority] may
27 issue a notice of intent to the permittee or landowner or land user of its intent to perform work
28 necessary to comply with this ordinance. The [administering authority] may go on the land and
29 commence the work after 14 days from issuing the notice of intent. The costs of the work
30 performed by the [administering authority], plus interest at the rate authorized by [administrative
31 authority] shall be billed to the permittee or the landowner. In the event a permittee or
32 landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and
33 collect as a special charge against the property pursuant to section 66.60(16), Wis. Stats.

34

Permittee/Landowner

1 (6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of
2 not less than [amount] nor more than [amount] and the costs of prosecution for each violation.
3 Each day a violation exists shall constitute a separate offense.

4
5 (7) Compliance with the provisions of this ordinance may also be enforced by injunction
6 in any court with jurisdiction.

7
8 S.11 APPEALS.

9
10 (1) BOARD OF APPEALS [or BOARD OF ADJUSTMENTS]. The board of appeals [or board
11 of adjustments if county ordinance] created pursuant to section of the [county's, city's or
12 village's] zoning ordinance pursuant to s.59.99 or 62.23(7)(e) Wis. Stats.

13
14 (a) Shall hear and decide appeals where it is alleged that there is error in any order, decision
15 or determination made by the [administering authority] in administering this ordinance
16 except for cease and desist orders obtained under s.10(3).

17
18 (b) Upon appeal, may authorize variances from the provisions of this ordinance which are
19 not contrary to the public interest and where owing to special conditions a literal
20 enforcement of the provisions of the ordinance will result in unnecessary hardship; and

21
22 (c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and
23 deciding appeals and authorizing variances.

24
25 (2) WHO MAY APPEAL. Appeals to the board of appeals [or board of adjustment if county
26 ordinance] may be taken by any aggrieved person or by any office, department, board, or bureau
27 of the [county, city, village, or town] affected by any decision of the [administering authority].

1 Appendix B

2
3 Model Storm Water Management Zoning Ordinance
4
5
6
7

8 *Note:* This model ordinance includes the use of brackets [] around phrases that are to be
9 filled in by the local municipality. For example, the phrase [administering authority] is
10 frequently used. Where the municipality chooses to have the ordinance administered by the City
11 Engineer, the phrase [administering authority] should be replaced by "City Engineer". In a few
12 places, the model ordinance includes phrases in brackets that are underlined [_____]. In these
13 cases, one of the underlined phrases must be selected verbatim. For example, if the phrase
14 includes statutory citations, several underlined choices will be given such as [59.693, 60.627,
15 61.354, or 62.234]. A county would replace the phrase in brackets with "59.693", since that is
16 the appropriate citation.

17
18 AN ORDINANCE TO CREATE CHAPTER [NUMBER] OF THE [CODE OR ORDINANCE]
19 OF THE [NAME OF MUNICIPALITY] RELATING TO THE CONTROL OF
20 STORM WATER RUNOFF FROM LAND DEVELOPMENT AND LAND
21 REDEVELOPMENT
22

23 FOREWORD

24
25 The intent of this ordinance is to reduce the amount of storm water and associated pollutants
26 reaching waters of the state during the post-construction period from land development and re-
27 development activity. Use of this ordinance by municipalities will foster the consistent statewide
28 application of performance standards developed by the Department of Natural Resources under s.
29 281.16(2), Wis. Stats.

30
31 The [governing body] of the [municipality] does hereby ordain that Chapter [number] of the
32 [code or ordinance] of the [name of municipality] is created to read as follows:

33
34 [CHAPTER]
35 STORM WATER RUNOFF
36

1 S. .01 AUTHORITY

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- (1) This ordinance is adopted by the [governing body] under the authority granted by s. [59.693, 60.627, 61.354 or 62.234], Wis. Stats. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under s. [59.69, 60.62, 61.35 or 62.23], Wis. Stats. Except as specifically provided for in s. [59.693, 60.627, 61.354 or 62.234], Wis. Stats., s. [59.69 and 59.99, 60.62, 61.35, or 62.23], Wis. Stats. applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The [governing body] hereby designates the [administering authority] to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - (a) Department of Natural Resources administrative rules, permits or approvals including, but not limited to, those authorized under s. 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Department of Natural Resources under s. NR 151.003, Wis. Admin. Code.
 - (c) Technical standards for implementing non-agricultural performance standards developed by the Department of Natural Resources under subchapter IV of NR 151, Wis. Admin. Code.

S. 02. FINDINGS OF FACT

The [governing body] finds that uncontrolled storm water runoff from land development and land redevelopment activity 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 storm water runoff can:

- 1 (1) degrade physical stream habitat by increasing stream bank erosion, increasing stream bed
2 scour, diminishing groundwater recharge, diminishing stream base flows and increasing
3 stream temperature;
4
- 5 (2) diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and
6 water supply uses by increasing loadings of sediment, suspended solids, nutrients, heavy
7 metals, bacteria, pathogens and other urban pollutants;
8
- 9 (3) alter wetland communities by changing wetland hydrology and by increasing pollutant
10 loads;
11
- 12 (4) reduce the quality of groundwater by increasing pollutant loading;
13
- 14 (5) threaten public health, safety, property, and general welfare by overtaxing storm sewers,
15 drainage ways, and other minor drainage facilities;
16
- 17 (6) threaten public health, safety, property, and general welfare by increasing major flood
18 peaks and volumes;
19
- 20 (7) undermine floodplain management efforts by increasing the incidence and levels of
21 flooding.
22

23 S. 03. PURPOSE AND INTENT

- 24
- 25 (1) PURPOSE. The general purpose of this ordinance is to set forth long-term, post-
26 construction storm water requirements and criteria which will diminish the threats to
27 public health, safety, welfare and the aquatic environment due to runoff of storm water
28 from land development and land redevelopment activity. Specific purposes are to:
29
- 30 (a) further the maintenance of safe and healthful conditions;
31
- 32 (b) prevent and control the adverse effects of storm water, prevent and control soil
33 erosion, prevent and control water pollution, protect spawning grounds, fish and
34 aquatic life;

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- (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; prevent conditions that endanger downstream property;
- (d) control building sites, placement of structures, and land uses, and promote sound economic growth.

(2) INTENT. It is the intent of the [governing body] that this ordinance manage the long-term, post-construction storm water discharges from land development and land redevelopment activities by achieving a specific set of performance standards at locations where it applies. This ordinance can be applied on a site-by-site basis. The [governing body] recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe alternative applicability and performance standards for specific sites when the overall performance standards can be met in more cost-effective approach. Where such plans have been developed and approved by the [governing body], it is the intent of this ordinance that land development and redevelopment activity will be required to meet the storm water management measures set forth in the approved plan.

S. 04. DEFINITIONS

(1) "Administering authority" means the governmental employee, or a regional planning commission empowered under s. [59.693; 60.627; 61.354; 62.234], Wis. Stats., designated by the [governing body] to administer this ordinance.

(2) "Agricultural activity" means planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries, but does not include the construction of buildings or facilities used for agriculture.

(3)1 "Best management practice" or "BMP" means a practice, technique or measure which is
2 determined to be an effective means of preventing or reducing runoff pollutants to waters
3 of the state, to a level compatible with the performance standards in s. 07 of this
4 ordinance.



6 (4) "Business day" means a day the office of the [administering authority] is routinely and
7 customarily open for business.

9 (5) "Cease and desist order" means a court-issued order to halt land development and land
10 redevelopment activity that is being conducted without the required permit.

12 (6) "Common plan of development or sale" means an area where multiple separate and
13 distinct land developing activities may be taking place at different times on different
14 schedules but under one plan.

16 (7) "Design storm" means a hypothetical discrete rainstorm characterized by a specific
17 duration, temporal distribution, rainfall intensity, return frequency, and total rainfall
18 depth.

20 (8) "Discharge volume" means the quantity of runoff discharged from the land surface as the
21 result of a rainfall event.

23 (9) "Division of land" means the creation from one parcel of [number] or more parcels or
24 building sites of [number] or fewer acres each in area where such creation occurs at one
25 time or through the successive partition within a 5 year period.

27 (10) "Extra-territorial" means the unincorporated area within 3 miles of the corporate limits of
28 a first, second or third class city, or within 1 1/2 miles of a fourth class city or village.



30 (11) "Fee in lieu" means a payment of money to the [governing body] in place of meeting all
31 or part of the storm water performance standards required by the ordinance.



33 (12) "Financial guarantee" means a performance bond, maintenance bond, surety bond,
34 irrevocable letter of credit or similar guarantees submitted to the [administering

1 authority] by the permit holder to assure that requirements of the ordinance are carried
2 out in compliance with the storm water management plan.

3
4 (13) "Governing body" means town board of supervisors, county board of supervisors, city
5 council, village board of trustees or village council. *M*

6
7 (14) "Impervious surface" means a land cover that releases as runoff all or a large portion of
8 the precipitation that falls on it. Rooftops, sidewalks, driveways, parking lots and streets
9 are examples of surfaces that typically are impervious. *See note*

10
11 (15) "Infiltration" means the process by which rainfall or surface runoff passes into or through
12 the underlying soil.

13
14 (16) "Land development activity" means any construction of residential or other urban or *cf (23)*
15 suburban development resulting from the conversion of previously undeveloped or
16 agricultural land uses.

17
18 (17) "Land redevelopment activity" means new development that is replacing older
19 development.

20
21 (18) "Maintenance agreement" means a legal document that is filed with the County Register *See note*
22 of Deeds as a property deed restriction, and which provides for long-term maintenance of
23 storm water management practices.

24
25 (19) "Municipality" means a town, county, village or city.

26
27 (20) "Non-storm discharge" means a discharge to the storm sewer system created by some
28 process other than storm water runoff.

29
30 (21) "Non-structural measure" means a practice, technique or measure to reduce the volume,
31 peak flow rate or pollutants in storm water that does not require the design or installation
32 of fixed storm water management facilities.

33

- 1 (22) "Off-site" means located outside the property boundary described in the permit
2 application for land development or land redevelopment activity.
3
- 4 (23) "Other than residential development" means development which is not residential. This
5 includes the following land uses: commercial; industrial; government and institutional;
6 recreation; transportation, communication and utilities.
7
- 8 (24) "On-site" means located within the property boundary described in the permit application
9 for the land development or land redevelopment activity.
10
- 11 (25) "Peak flow discharge rate" means the maximum unit volume of storm water discharged
12 during a specified unit of time.
13
- 14 (26) "Performance standard" means a measurable number or measurable narrative for a *check*
15 pollution source specifying the minimum acceptable outcome for a facility or practice.
16
- 17 (27) "Permit" means a written authorization made by the [administering authority] to the
18 applicant to conduct land development or land redevelopment activities.
19
- 20 (28) "Permit administration fee" means a sum of money paid to the [administering authority]
21 by the permit applicant for the purpose of recouping the expenses incurred by the *7*
22 authority in administering the permit. *administering*
23
- 24 (29) "Pervious surface" means a surface that infiltrates rainfall during a large portion of the
25 design rainfall event. Lawns, fields and woodlands are examples of pervious surfaces.
26
- 27 (30) "Post-construction storm water discharge" means any storm water discharged from a site
28 following the completion of land disturbing construction activity and final site
29 stabilization.
30
- 31 (31) "Post-development condition" means the extent and distribution of land cover types
32 anticipated to occur under conditions of full development, that will influence storm water
33 runoff and infiltration.
34

- 1 (32) "Pre-development condition" means the extent and distribution of land cover types
2 present before the initiation of land development or land redevelopment activity,
3 assuming that all land uses prior to development activity are managed in an }
4 environmentally sound manner.
- 5
- 6 (33) "Pre-treatment" means the treatment of storm water prior to its discharge to the primary
7 storm water treatment practice in order to reduce pollutant loads to a level compatible
8 with the capability of the primary practice.
- 9
- 10 (34) "Residential development" means that which is created to house people, including the
11 residential dwellings as well as all attendant portions of the development including lawns,
12 driveways, sidewalks, garages and access streets. This type of development includes
13 single family, multi-family, apartments and trailer parks.
- 14
- 15 (35) "Site restriction" means any physical characteristic which limits the use of a storm water
16 best management practice or management measure.
- 17
- 18 (36) "Source area" means a component of urban land use from which storm water pollutants
19 are generated during periods of snowmelt and rainfall runoff. Source areas include
20 rooftops, sidewalks, driveways, parking lots, storage areas, streets and lawns.
- 21
- 22 (37) "Stop work order" means an order issued by the [administering authority] which requires
23 that all construction activity on the site be stopped.
- 24
- 25 (38) "Storm water management plan" means a document that identifies what actions will be
26 taken to reduce storm water quantity and pollutant loads from land development and land
27 redevelopment activity to levels that meet the purpose and intent of this ordinance.
- 28
- 29 (39) "Storm water management system plan" is a comprehensive plan developed to address
30 storm water drainage and nonpoint source pollution control problems on a watershed or
31 sub-watershed basis, and which meets the purpose and intent of this ordinance.
- 32

- 1 (40) "Storm water runoff" means that portion of the precipitation falling during a rainfall
2 event, or that portion of snow-melt, that runs off the surface of the land and into the
3 natural or artificial conveyance or drainage network.
4
- 5 (41) "Structural measure" means source area practices, conveyance measures, and end-of-pipe
6 treatment that are designed to control storm water runoff pollutant loads, discharge
7 volumes and peak flow discharge rates.
8
- 9 (42) "Storm sewer system" means a conveyance or system of conveyances including roads
10 with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels
11 or storm drains which is designed for collecting water or conveying storm water.
12
- 13 (43) "Targeted performance standard" means a performance standard, promulgated under s.
14 NR 151.004, Wis. Admin. Code, that will apply in a specific area and that will require
15 additional storm water controls in order to meet water quality standards.
16
- 17 (44) "Waters of the state" means those portions of Lake Michigan and Lake Superior within
18 the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells,
19 impounding reservoirs, marshes, watercourses, drainage systems and other surface water
20 or groundwater, natural or artificial, public or private, within Wisconsin or its
21 jurisdiction.
22
- 23 (45) "Wetland functional value" means the type, quality and significance of the ecological and
24 cultural benefits provided by wetland resources, such as: flood storage, water quality
25 protection, groundwater recharge and discharge, shoreline protection, fish and wildlife
26 habitat, floral diversity, aesthetics, recreation and education.
27
- 28 (46) "Wetlands" means an area where water is at, near or above the land surface long enough
29 to be capable of supporting aquatic or hydrophytic vegetation and which has soils
30 indicative of wet conditions. These wetlands include natural, mitigation and restored
31 wetlands.
32

1 (47) "WPDES Storm Water Permit" means a permit issued by the Wisconsin Department of
2 Natural Resources under s. 283.33, Wis. Stats. that authorizes the point source discharge
3 of storm water to waters of the state.
4

5 S. 05. APPLICABILITY AND JURISDICTION
6

7 (1) APPLICABILITY. Except as described below, this ordinance applies to construction
8 sites, including land development and redevelopment, upon which land disturbing
9 construction activity affects one or more acres of land.
10

11 (a) This ordinance applies to land development and land redevelopment activities
12 that are smaller than one acre if such activities are part of a larger common plan
13 of development or sale that in total affects one or more acres.
14

15 (b) This ordinance applies to land development and land redevelopment activity of
16 any size that, in the opinion of the [administering authority], is likely to result in
17 storm water runoff which exceeds the safe capacity of the existing drainage
18 facilities or receiving body of water, which causes undue channel erosion, which
19 increases water pollution by scouring or the transportation of particulate matter
20 or which endangers property or public safety.
21

22 (c) This ordinance does not apply to redevelopment sites with no exposed parking
23 lots or roads.
24

25 (d) For sites with less than 10% connected impervious surfaces (based on the
26 completed development of the site), this ordinance applies only to parking lots
27 and rooftops with a cumulative area of one or more acres.
28

29 (2) JURISDICTION. This ordinance applies to [land development and land redevelopment
30 activities within the boundaries of the [name of the local municipality]].
31

32 or
33

1 [land development and land redevelopment activities within the boundaries of the [name
2 of local municipality]. This ordinance applies to the division of land within the
3 boundaries of the [name of the local municipality] and within its extraterritorial plat
4 approval jurisdiction under Chapter 236, Wis. Stats.]

5
6 or

7
8 [land development and land redevelopment activities within the boundaries of the [name
9 of the local municipality]. This ordinance applies to all lands located within the
10 extraterritorial plat approval jurisdiction of the [name of the local municipality], even if
11 plat approval is not involved.]

12
13 S. 06. TECHNICAL STANDARDS

14
15 The following methods shall be used in designing the water quality, peak flow shaving and
16 infiltration components of storm water practices needed to meet the water quality standards of
17 this ordinance:

- 18
19 (1) Technical standards developed and disseminated by the Department of Natural Resources
20 under subchapter IV of NR 151, Wis. Admin. Code.
21
22 (2) Where technical standards have not been developed and disseminated by the Department
23 of Natural Resources, other technical standards may be used provided that the methods
24 have been approved by the [administering authority].
25

26 S. 07. STORM WATER PERFORMANCE STANDARDS

✓ hold?

- 27
28 (1) **STORM WATER DISCHARGE QUANTITY. Unless otherwise provided for**
29 **in this ordinance, all land development and land redevelopment activities**
30 **subject to this ordinance shall establish on-site^{best} management practices to**
31 **control the peak flow rates of storm water discharged from the site and to**
32 **preserve base flow in streams. The BMPs shall be designed, installed or**
33 **applied and maintained to the maximum extent practicable in accordance**

1 with a storm water management plan for the long-term control of post-
2 construction storm water discharges. All of the following apply.

- 3
4 (a) By design, maintain or reduce the peak runoff discharge rates as
5 compared to pre-development conditions for the 2- and 10-year, 24-
6 hour design storms applicable to the site, assuming "good hydrologic
7 conditions" for pre-development land covers as identified in TR-55 or
8 an equivalent methodology. When pre-development land cover is
9 cropland, the runoff curve numbers in Table 1 shall be used. This
10 paragraph is not applicable to a site that discharges directly to a lake.
11

Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	55	68	77	80

12
13 Note: The intent of paragraph (a) is to limit streambank erosion.

- 14
15 (b) Discharge velocities must be non-erosive to discharge locations, outfall channels
16 and receiving streams.
17
18 (c) By design, infiltrate initial runoff from the site in accordance with either subd. 1.
19 or 2., except as provided in subd. 3.

20
21 1. The inches of initial runoff to be infiltrated across the site per
22 runoff event shall be equal to or greater than the levels given in Table

23 2.)

1
2

Hydrologic Soil Group	1 & 2 Family Residential Land Use	Land Uses Other Than 1 & 2 Family Residential
A	0.26	0.40
B	0.23	0.30
C	0.12	0.14

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2. The inches of initial runoff to be infiltrated across the site per runoff event shall be equal to or greater than the levels calculated using the following equation: $I = CI \times F$. “I” is the inches of initial runoff to be infiltrated across the site per runoff event. “CI” is the percent of connected imperviousness across the site. “F” is a factor defined as follows:

- a. For one and 2 family residential land use, “F” shall have a value of 0.62 for type A, 0.55 for type B and 0.28 for type C hydrologic soil groups.
- b. For land use other than one & 2 family residential, “F” shall have a value of 0.44 for type A, 0.33 for type B and 0.15 for type C hydrologic soil groups.

Note: There may be pretreatment necessary prior to infiltrating runoff. That portion of the runoff from industrial manufacturing areas that is not contaminated may be infiltrated. The one & 2 family residential land use infiltration levels given achieve approximately 90% of annual average runoff infiltration when compared to predevelopment conditions. All other land use infiltration levels given achieve approximately 70% runoff infiltration when compared to predevelopment conditions based on annual averages. The levels given in Table 2 are based on a site with 42%

1 connected imperviousness for one & 2 family residential and 90%
2 connected imperviousness for all other land uses. Infiltration devices and
3 practices include, but are not limited to: decreasing the amount of
4 impervious surface, directing runoff from rooftops and parking areas to
5 natural pervious areas such as grassed lawns or swales or where space is
6 limited for natural infiltration directing runoff to infiltration devices such
7 as ponds or trenches. Infiltration within wellhead protection areas should
8 be accomplished by directing uncontaminated runoff into natural pervious
9 areas. Infiltration devices such as ponds and trenches may be prohibited
10 within wellhead protection areas.

11
12 3. *Runoff from the following areas and conditions are exempt from*
13 meeting this paragraph.

14
15 a. Areas associated with industrial manufacturing including storage,
16 loading, rooftop and parking.

17
18 b. Storage and loading areas of non-manufacturing industries.
19 Parking and rooftop areas are not exempt from this infiltration
20 requirement for non-manufacturing facilities.

21
22 c. Conditions when infiltration is limited due to frozen
23 ground.

24
25 d. Areas composed of hydrologic soil group D.

26
27 **Note:** Areas described in subdivision paragraphs a. and b. are
28 exempted from infiltration due to the potential of high contamination of
29 runoff from these areas which could lead to ground water contamination if
30 infiltrated.

31
32 (d) Minimize to the extent practical increases or decreases in the hydrology of
33 wetlands. Where such changes are proposed, the impact of the proposal on

1 wetland functional values shall be assessed using a methodology acceptable to
2 the [administering authority]. Significant degradation of wetland functional
3 values shall be avoided.

4
5 **Note:** The administering authority is encouraged to review chapter NR 103, Wis.
6 Admin. Code as a guide to administering the wetland protection provisions of the
7 model ordinance. The Department of Natural Resources has also prepared a
8 guide to administering wetland standards that can serve as a handbook for the
9 local authority charged with administering this ordinance (Water Quality
10 Standards for Wetlands: A Regulator's Guide. Wisconsin DNR, Bureau of Water
11 Regulation and Zoning. September, 1992). This guide references several
12 wetland assessment methodologies that can be specified for use by the
13 administering authority.

14
15 (2) **STORM WATER DISCHARGE QUALITY.** Unless otherwise provided for in this
16 ordinance, all land development and land redevelopment activities subject to this
17 ordinance shall establish on-site management practices to control the discharge of storm
18 water pollutants. The BMPs shall be designed, installed or applied and maintained, in
19 accordance with a storm water management plan for the long-term control of post-
20 construction storm water discharges, to control total suspended solids and other pollutants
21 carried in runoff to the maximum extent practicable. All of the following apply:

- 22
23 (a) **By design, reduce the annual average total suspended solids load in**
24 **runoff by 80% as compared to no controls for the site.**

25
26 **Note: Achieving this standard will have the effect of achieving about a 50%**
27 **annual average load reduction in phosphorus and about a 50% annual**
28 **average load reduction for heavy metals.**

- 29
30 (b) **If 80% of the total suspended solids load will not be controlled from**
31 **the site by design, then the storm water management plan shall**
32 **include a reasonable justification for not controlling 80% of the total**

1 model ordinance. The Department of Natural Resources has also prepared a
2 guide to administering wetland standards that can serve as a handbook for the
3 local authority charged with administering this ordinance (Water Quality
4 Standards for Wetlands: A Regulator's Guide. Wisconsin DNR, Bureau of Water
5 Regulation and Zoning. September, 1992). This guide references several
6 wetland assessment methodologies that can be specified for use by the
7 administering authority.

8
9 (f) Storm water shall not be injected underground through excavations or openings
10 in a manner that would violate s. NR 812.05, Wis. Admin. Code.

11
12 (g) Storm water ponds and infiltration devices shall not be located closer to water
13 supply wells than as indicated below without first notifying and obtaining
14 approval from the [administering authority]:

15
16 1. 100 feet from a well serving a private water system or a transient, non-
17 community public water system;

18
19 2. 1,200 feet from a well serving a municipal public water system, an
20 other-than municipal public water system, or a non-transient non-
21 community public water system;

22
23 3. the boundary of a recharge area to a wellhead identified in a wellhead
24 area protection plan.

25
26 (3) ALTERNATE REQUIREMENTS. The [administering authority] may establish storm
27 water management requirements either more stringent or less stringent than those set
28 forth in subs. (1) and (2) provided that at least one of the following conditions applies.

29
30 (a) The [administering authority] determines that an added level of protection is
31 needed to protect sensitive resources.

32
33 (b) The [administrating authority] determines that the land development and land
34 redevelopment activity is covered by an approved storm water management

1 system plan that contains management requirements consistent with the purpose
2 and intent of this ordinance.

3
4 (c) Provisions are made to manage storm water by an off-site facility, provided that
5 all of the following conditions for the off-site facility are met:

- 6
7 1. The facility is in place,
8
9 2. The facility is designed and adequately sized to provide a level of storm
10 water control equal to or greater than that which would be afforded by
11 on-site practices meeting the performance standards of this ordinance,
12
13 3. The facility has a legally obligated entity responsible for its long-term
14 operation and maintenance.

15
16 (d) The [administering authority] finds that meeting the minimum on-site
17 management requirements of this ordinance is not feasible due to space or site
18 restrictions.

19
20 (4) FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT PRACTICES. Where
21 the [administering authority] waives under sub. (3) all or part of the minimum on-site
22 storm water management requirements, notwithstanding s. 08(3)(a) the applicant shall be
23 required to pay a fee in an amount determined in negotiation with the [administering
24 authority]. The purpose of the fee is to fund alternative municipal storm water
25 management measures to offset the environmental impacts of waiving the requirements.
26 In determining the fee for land development and land redevelopment projects, the
27 [administering authority] shall consider an equitable distribution of the cost needed for
28 land, engineering design, construction, and maintenance of storm water management
29 practices.

30
31 (5) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER
32 MANAGEMENT MEASURES. The following considerations shall be observed in
33 managing storm water runoff:
34

1 (a) Natural topography and land cover features such as natural swales, natural
2 depressions, native soil infiltrating capacity, and natural groundwater recharge
3 areas shall be preserved and used, to the extent possible, to meet the requirements
4 of this section.

5
6 (b) Emergency overland flow for all storm water facilities shall be provided to
7 prevent exceeding the safe capacity of downstream drainage facilities and
8 prevent endangerment of downstream property or public safety.

9
10 S. 08. PERMITTING REQUIREMENTS, PROCEDURES AND FEES

11
12 (1) PERMIT REQUIRED. No land owner or land operator may undertake a land
13 development or land redevelopment activity subject to this ordinance without receiving a
14 permit from the [administering authority] prior to commencing the proposed activity.

15
16 (2) PERMIT APPLICATION AND FEE. Unless specifically excluded by this ordinance,
17 any land owner or operator desiring a permit shall submit to the [administering authority]
18 a permit application made on a form provided by the [administering authority] for that
19 purpose.

20
21 (a) Unless otherwise excepted by this ordinance, a permit application must be
22 accompanied by the following in order that the permit application be considered
23 for approval by the [administering authority]: a storm water management plan, a
24 maintenance agreement and a non-refundable permit administration fee
25 established in s. 12 of this ordinance.

26
27 (b) The storm water management plan shall be prepared to meet the requirements of
28 ss. .07 and .09 of this ordinance, the maintenance agreement shall be prepared to
29 meet the requirements of s. 10 of this ordinance, the financial guarantee shall
30 meet the requirements of s. 11 of this ordinance, and fees shall be those
31 established by the [governing body] as set forth in s. 12 of this ordinance.

32
33 (3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The [administering
34 authority] shall review any permit application that is submitted with a storm water

1 management plan, maintenance agreement, and the required fee. The following approval
2 procedure shall be used:

3
4 (a) Within [number] business days of the receipt of a complete permit application,
5 including all items as required by s. 08(2)(a), the [administering authority] shall
6 inform the applicant whether the application, plan and maintenance agreement
7 are approved or disapproved. The [administering authority] shall base the
8 decision on requirements set forth in s. 07, s. 09, and s. 10 of this ordinance.

9
10 (b) If the storm water permit application, plan and maintenance agreement are
11 approved, or if an agreed upon payment of fees in lieu of storm water
12 management practices is made, the [administering authority] shall issue the
13 permit.

14
15 (c) If the storm water permit application, plan or maintenance agreement are
16 disapproved, the [governing body] shall detail in writing ^{of} the reasons for
17 disapproval.

18
19 (d) The [administering authority] may request additional information from the
20 applicant. If additional information is submitted, the [administering authority]
21 shall have [number] business days from the date the additional information is
22 received to inform the applicant that the plan and maintenance agreement are
23 either approved or disapproved.

24
25 (e) Failure by the [administering authority] to inform the permit applicant of a
26 decision within [number] business days of a required submittal shall be deemed
27 to mean approval of the submittal and the applicant may proceed as if a permit
28 had been issued.

29
30
31 (4) PERMIT CONDITIONS. All permits issued under this ordinance shall be subject to the
32 following conditions, and holders of permits issued under this ordinance shall be deemed
33 to have accepted these conditions. The [administering authority] may suspend or revoke
34 a permit for violation of a permit condition, following written notification of the

1 permittee. An action by the [administering authority] to suspend or revoke this permit
2 may be appealed in accordance with s. 14 of this ordinance.

3
4 (a) Compliance with this permit does not relieve the permit holder of the
5 responsibility to comply with other applicable federal, state and local laws and
6 regulations.

7
8 (b) The permit holder shall design and install all structural and non-structural storm
9 water management measures in accordance with the approved storm water
10 management plan and this permit.

11
12 (c) The permit holder shall notify the [administering authority] at least [number]
13 business days before commencing any work in conjunction with the storm water
14 management plan, and within [number] business days upon completion of the
15 storm water management practices. If required as a special condition under par.
16 (d), the permit holder shall make additional notification according to a schedule
17 set forth by the [administering authority] so that practice installations can be
18 inspected during construction.

19
20 (d) Permits issued under this subsection may include any special conditions needed
21 to meet the performance standards in s. 07 or a financial guarantee as provided
22 for in s. 11 of this ordinance.

23
24 (e) Practice installations required as part of this ordinance shall be certified "as built"
25 by a licensed professional engineer. Completed storm water management
26 practices must pass a final inspection by the [administering authority] or its
27 designee to determine if they are in accordance with the approved storm water
28 management plan and ordinance. The [administering authority] or its designee
29 shall notify the permit holder in writing of any changes required in such practices
30 to bring them into compliance with the conditions of this permit.

31
32 (f) The permit holder shall notify the [administering authority] of any significant
33 modifications it intends to make to an approved storm water management plan.
34 The [administering authority] may require that the proposed modifications be

1 submitted for approval prior to incorporation into the storm water management
2 plan and execution.

3
4 (g) The permit holder shall maintain all storm water management practices in
5 accordance with the storm water management plan until the practices either
6 become the responsibility of the [governing body], or are transferred to
7 subsequent private owners as specified in the approved maintenance agreement.

8
9 (h) The permit holder authorizes the [administering authority] to perform any work
10 or operations necessary to bring storm water management measures into
11 conformance with the approved storm water management plan, and consents to a
12 ~~special assessment or charge against the property as authorized under s.~~ } ✓
13 ~~66.60(16), Wis. Stats., or to charging such costs against the financial guarantee~~
14 ~~posted under s. 11 of this ordinance.~~

15
16 (i) If so directed by the [administering authority], the permit holder shall repair at
17 the permit holder's own expense all damage to adjoining municipal facilities and
18 drainage ways caused by storm water runoff, where such damage is caused by
19 activities that are not in compliance with the approved storm water management
20 plan.

21
22 (j) The permit holder shall permit property access to the [administering authority] or
23 its designee for the purpose of inspecting the property for compliance with the
24 approved storm water management plan and this permit.

25
26 (k) Where site development or redevelopment involves changes in direction,
27 increases in peak rate and/or total volume of runoff from a site, the
28 [administering authority] may require the permittee to make appropriate legal
29 arrangements with affected property owners concerning the prevention of
30 endangerment to property or public safety.

31
32 (l) The permit holder is subject to the ^{enforcement} enforceable actions ^{and pen.} detailed in s. 13 of the
33 storm water management ordinance if the permit holders fails to comply with the
34 terms of this permit.

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(5) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the [administering authority] notifies the permit holder that all storm water management practices have passed the final inspection required under sub. (4).

S. 09. STORM WATER MANAGEMENT PLAN

(1) PLAN REQUIREMENTS. The storm water management plan required under s. 08(2)(a) of this ordinance shall contain any information the [administering authority] requires to evaluate the environmental characteristics of the area affected by land development and land redevelopment activity, the potential impacts of the proposed development upon the quality and quantity of storm water discharges, the potential impacts upon water resources and drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, storm water management plans shall contain at a minimum the following information:

- (a) Name, address and telephone number for the following or their designees:
 - landowner; developer; project engineer for practice design and certification;
 - person(s) responsible for installation of storm water management practices;
 - person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

- (b) A proper legal description of the property proposed to be developed referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

- (c) Pre-development site conditions, including:
 - 1. One or more site maps at a scale of not less than 1 inch equals [number] feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a

1 scale not to exceed [number] feet; topography and drainage network
2 including enough of the contiguous properties to show runoff patterns
3 onto, through, and from the site; watercourses that may affect or be
4 affected by runoff from the site; flow path and direction for all storm
5 water conveyance sections, including time of travel and time of
6 concentration applicable to each; watershed boundaries used in
7 determinations of peak flow discharge rates and discharge volumes
8 from the site; lakes, streams, wetlands, channels, ditches and other
9 watercourses on and immediately adjacent to the site; limits of the 100
10 year floodplain; location of wells located within 1,200 feet of storm
11 water detention ponds, infiltration basins, or infiltration trenches; *and* *X*
12 wellhead protection areas covering the project area and delineated
13 pursuant to section NR 811.16, Wis. Admin. Code.

- 14
- 15 2. Computations of peak flow discharge rates and discharge volumes for
16 the 2-year and 10-year, 24 hour storm events. All major assumptions
17 used in developing input parameters shall be clearly stated. The
18 computations shall be made for each discharge point in the
19 development, and the geographic areas used in making the calculations
20 shall be clearly cross-referenced to the required map(s).

21

22 (d) Post-development site conditions, including:

- 23
- 24 1. Explanation of the provisions to preserve and use natural topography
25 and land cover features to minimize changes in peak flow runoff rates
26 and volumes to surface waters and wetlands.
- 27
- 28 2. Explanation of any restrictions on storm water management measures in
29 the development area imposed by wellhead protection plans and
30 ordinances.
- 31
- 32 3. One or more site maps at a scale of not less than 1 inch equals [number]
33 feet showing the following: post-construction pervious land use
34 including vegetative cover type and condition; impervious land use

1 including all buildings, structures and pavement; post-construction
2 topographic contours of the site at a scale not to exceed [number] feet;
3 post-construction drainage network including enough of the contiguous
4 properties to show runoff patterns onto, through and from the site;
5 locations and dimensions of drainage easements; locations of
6 maintenance easements specified in the maintenance agreement; flow
7 path and direction for all storm water conveyance sections, including
8 time of travel and time of concentration applicable to each; location and
9 type of all storm water management conveyance and treatment
10 practices, including the on-site and off-site tributary drainage area;
11 location and type of conveyance system that will carry runoff from the
12 drainage and treatment practices to the nearest adequate outlet such as a
13 curbed street, storm drain, or natural drainage way; watershed
14 boundaries used in determinations of peak flow discharge rates and
15 discharge volumes; ^{aspect} any changes to lakes, streams, wetlands, channels,
16 ditches, and other watercourses on and immediately adjacent to the site.

- 17
- 18 4. Computation of the inches of initial runoff that will be infiltrated across
19 the site in comparison to the requirements set forth in s .07(1)(c).
20
- 21 5. Computations of peak flow discharge rates for the 2-year and 10-
22 year/24 hour storm events. All major assumptions used in developing
23 input parameters shall be clearly stated. The computations of peak flow
24 discharge rates shall be made for each discharge point in the
25 development, and the geographic areas used in making the calculations
26 shall be clearly cross-referenced to the required map(s).
27
- 28 6. Results of investigations of soils and groundwater required for the
29 placement and design of storm water management measures.
30
- 31 7. Results of impact assessments on wetland functional values.
32
- 33 8. Design computations and all applicable assumptions for the storm sewer
34 system.

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9. Design computations and all applicable assumptions for storm water quality practices as needed to show that practices are appropriately sized to meet the performance standards of this ordinance.

10. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.

(e) A description and installation schedule for the storm water management practices needed to meet the performance standards in s. 07.

(f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.

(g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.

(h) Other information requested in writing by the [administering authority] to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

(i) All site investigations, plans, designs, computations, and drawings shall be certified by a [competent authority] to be prepared in accordance with accepted engineering practice and requirements of this ordinance.

(2) ALTERNATE REQUIREMENTS. The [administering authority] may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under s. 07(3) of this ordinance.

S. 10. MAINTENANCE AGREEMENT

(1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required for storm water management practices under s. 08(2) of this ordinance shall be an

1 agreement between the [administering authority] and the permittee to provide for
2 maintenance of storm water practices beyond the duration period of this permit. The
3 agreement or recordable document shall be recorded with the County Register of Deeds
4 so that it is binding upon all subsequent owners of land served by the storm water
5 management practices.

} sufficient
to make
binding?
cf. 11(2)(b)

6
7 (2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following
8 information and provisions:

↓
see
def. 1
p. 23

- 9
10 (a) Identification of the storm water facilities and designation of the drainage area
11 served by the facilities.
12
13 (b) A schedule for regular maintenance of each aspect of the storm water
14 management system consistent with the storm water management plan required
15 under s. 08(2).
16
17 (c) Identification of the landowner(s), organization or municipality responsible for
18 long term maintenance of the storm water management practices identified in the
19 storm water plan required under s. 08(2).
20
21 (d) Requirement that the landowner(s), organization, or municipality shall maintain
22 storm water management practices in accordance with the schedule included in
23 par. (b).
24
25 (e) Authorization for the [administering authority] to access the property to conduct
26 inspections of storm water practices as necessary to ascertain that the practices
27 are being maintained and operated in accordance with the agreement.
28
29 (f) A requirement on the [administering authority] to maintain public records of the
30 results of the site inspections, shall inform the landowner responsible for
31 maintenance of the inspection results, and shall specifically indicate any
32 corrective actions required to bring the storm water management practice into
33 proper working condition.
34

? to X

1 (g) Agreement that the [administering authority] notify the party designated under
2 the maintenance agreement of maintenance problems which require correction,
3 the specified corrective actions shall be taken within a reasonable time frame as }
4 set by the [administering authority].

and k

5
6 (h) Authorization of the [administering authority] to perform the corrected actions
7 identified in the inspection report if the landowner does not make the required
8 corrections in the specified time period. The [administering authority] shall enter
9 the amount due on the tax rolls and collect the money as a special charge against
10 the property pursuant to s. 66.60(16), Wis. Stats.

11
12 S. 11. FINANCIAL GUARANTEE

13
14 (1) ESTABLISHMENT OF THE GUARANTEE. The [administering authority] may require
15 the submittal of a financial guarantee, the form and type of which shall be acceptable to
16 the [administering authority]. The financial guarantee shall be in an amount determined
17 by the [administering authority] to be the estimated cost of construction and the estimated
18 cost of maintenance of the storm water management practices during the period which
19 the designated party in the maintenance agreement has maintenance responsibility. The
20 financial guarantee shall give the [administering authority] the authorization to use the
21 funds to complete the storm water management practices if the landowner defaults or
22 does not properly implement the approved storm water management plan, upon written
23 notice of the landowner by the administering authority that the requirements of this
24 ordinance have not been met.

25
26 (2) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are
27 as follows:

28
29 (a) The [administering authority] shall release the portion of the financial guarantee
30 established to assure installation of storm water practices, less any costs incurred
31 by the [administering authority] to complete installation of practices, upon
32 submission of "as built plans" by a licensed professional engineer. The
33 [administering authority] may make provisions for a partial pro-rata release of
34 the financial guarantee based on the completion of various development stages.

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(b) The [administering authority] shall release the portion of the financial security established to assure maintenance of storm water practices, less any costs incurred by the [administering authority], at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

S. 12. FEE SCHEDULE

The fees referred to in other sections of this ordinance shall be established by the [administering authority] and may from time to time be modified by resolution. A schedule of the fees established by the [administering authority] shall be available for review in [location].

S. 13. ENFORCEMENT AND PENALTIES

- (1) Any land development and land redevelopment activity initiated after the effective date of this ordinance by any person, firm, association or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The [administering authority] shall notify the responsible owner or operator by certified mail of any non-complying land development and land redevelopment activity. 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.
- (3) Upon receipt of written notification from the [administering authority] under subsection (2), the permit holder shall correct work which does not comply with the storm water management plan or other provisions of this permit. The permit holder shall make corrections as necessary to meet the specifications and schedule set forth by the [administering authority] in the notice.
- (4) If the violations to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the [administering authority] may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the

1 [administering authority] plus interest and legal costs shall be billed to the owner of title
2 of the property.

3
4 (5) The [administering authority] is authorized to post a stop work order on all land
5 development and land redevelopment activity in violation of this ordinance, or to request
6 the [municipal attorney, corporation counsel] to obtain a cease and desist order in any
7 court with jurisdiction.

8
9 (6) The [administering authority] may revoke a permit issued under this ordinance for non-
10 compliance with ordinance provisions.

11
12 (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect
13 unless retracted by the [administering authority] or by a court with jurisdiction.

14
15 (8) The [administering authority] is authorized to refer any violation of this ordinance, or of a
16 stop work order or cease and desist order issued pursuant to this ordinance, to the
17 [municipal attorney, corporation counsel] for the commencement of further legal
18 proceedings in any court with jurisdiction.

19
20 (9) Any person, firm, association or corporation who does not comply with the provisions of
21 this ordinance shall be subject to a forfeiture of not less than [number] dollars nor more
22 than [number] dollars per offense, together with the costs of prosecution. Each day that
23 the violation exists shall constitute a separate offense.

24
25 (10) Every violation of this ordinance is a public nuisance. Compliance with this ordinance 3
26 may be enforced by injunctive order at the suit of the [local municipality] pursuant to s.
27 [59.69(11), 60.74(4) or 62.23(8)], Wis. Stats. It shall not be necessary to prosecute for
28 forfeiture or a cease and desist order before resorting to injunctive proceedings.

29
30 (11) When the [administering authority] determines that the holder of a permit issued pursuant
31 to this ordinance has failed to follow practices set forth in the storm water management
32 plan, or has failed to comply with schedules set forth in said storm water management
33 plan, the [administering authority] or a party designated by the [administering authority]
34 may enter upon the land and perform the work or other operations necessary to bring the

1 condition of said lands into conformance with requirements of the approved plan. The
2 [administering authority] shall keep a detailed accounting of the costs and expenses of
3 performing this work. These costs and expenses shall be deducted from any financial
4 security posted pursuant to s. 11 of this ordinance. Where such a security has not been
5 established, or where such a security is insufficient to cover these costs, the costs and
6 expenses shall be entered on the tax roll as a special charge against the property and
7 collected with any other taxes levied thereon for the year in which the work is completed.
8

9 S. 14. APPEALS

10
11 (1) BOARD OF [APPEALS or ADJUSTMENTS]. The board of [appeals or adjustments],
12 created under section [number] of the [local municipality] zoning ordinance pursuant to s.
13 [62.23(7)(e), or 59.99 or 60.75], Wis. Stats., shall hear and decide appeals where it is
14 alleged that there is error in any order, decision or determination made by the
15 [administering authority] in administering this ordinance. The Board shall also use the
16 rules, procedures, duties, and powers authorized by statute in hearing and deciding
17 appeals. [Upon appeal, the Board may authorize variances from the provisions of this
18 ordinance which are not contrary to the public interest, and where owing to special
19 conditions a literal enforcement of the ordinance will result in unnecessary hardship.]
20

21 (2) WHO MAY APPEAL. Appeals to the board of [appeals or adjustments] may be taken by
22 any aggrieved person or by an officer, department, board, or bureau of the [local
23 municipality] affected by any decision of the [administering authority].
24

25 S. 15. SEVERABILITY

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

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S. 16. EFFECTIVE DATE

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the [governing body] of the [local municipality] on the [number] day of [month], [year].

Approved: _____

Attested _____

Published on [day, month, year].

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)