

CHAPTER XXIV

STORMWATER MANAGEMENT

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24.01 AUTHORITY. (1) This ordinance is adopted under authority granted by Wis. Stats. Sec. 62.234, and supersedes all conflicting and contradictory stormwater management regulations previously enacted under Wis. Stats. Sec. 62.23. Except as specifically provided for in Wis. Stats. Sec. 62.234, Wis. Stats. Sec. 62.23 applies to this ordinance and any amendments thereto.

(2) The provisions of this Ordinance shall not limit any other lawful regulatory powers of the Board of Trustees.

(3) The Board of Trustees hereby designates the Superintendent to administer and enforce the provisions of this Ordinance.

(4) The requirements of this Ordinance do not limit any additional stormwater management requirements that may be imposed by a WPDES Storm Water Permit issued by the Department of Natural Resources under Wis. Stats. Sec. 147.021.

24.02 FINDINGS AND PURPOSE. (1) Findings of Fact. The Board of Trustees finds that uncontrolled stormwater runoff from land development activity has a significant impact upon water resources and the health, safety, general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled stormwater runoff can:

- (a) Degrade physical stream habitat by increasing bank erosion, increasing stream bed scour, diminishing groundwater recharge, and diminishing stream base flows
- (b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing loadings of nutrients and other urban pollutants;
- (c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
- (d) Reduce the quality of groundwater by increasing pollutant loading;
- (e) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities;
- (f) Threaten public health, safety, property, and general welfare by increasing flood peaks and volumes;
- (g) Undermine floodplain management efforts by increasing the incidence and level of flooding.

(2) Purpose. The general purpose of this Ordinance is to set forth stormwater requirements and criteria which will diminish the threats to public health, safety, welfare, and the aquatic environment due to runoff of stormwater from land development activity. Specific purposes are to:

- (a) Further the maintenance of safe and healthful conditions;

- (b) Prevent and control the adverse effects of stormwater, prevent and control soil erosion, prevent and control water pollution, protect spawning grounds, fish and aquatic life;
- (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.

(3) Intent. It is the intent of the Board of Trustees that this Ordinance manages the long term post-construction stormwater discharges from land development activities. The Village recognizes that the preferred method of addressing stormwater management problems is through the preparation of comprehensive stormwater management system plans for subwatershed areas which are designed to meet the purpose and intent of this Ordinance. Where such system plans have been developed and approved by the Board of Trustees, it is the intent that all land development activities, as defined in Chapter 24.03 (1)(m) of this Ordinance, will include stormwater management measures that meet performance standards set forth in those approved plans. Where such stormwater management system plans have not be developed or approved by the Board of Trustees, it is the intent that the generic stormwater management standards set forth in Chapters 24.06(1) 24.07(2) of this Ordinance be applied unless otherwise excepted by the Board of Trustees. This Ordinance shall not apply to lands on which the only structures are buildings existing on the effective date of this Ordinance which are not redeveloped in a manner that increases discharge volume after the effective date of this Ordinance.

24.03 DEFINITIONS. (1) The following definitions should apply to this ordinance:

- (a) Agricultural Activity. Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption; pasturing or yarding of livestock; growing and tending of gardens and trees; harvesting of trees.
- (b) Business Day. A day on which the Public Works office is routinely customarily open for business.
- (c) Cease and Desist Order. An order issued by the Superintendent of Public Works or by a Court to halt land developing activity that is being conducted without the required permit.
- (d) Common Plan of Development on Sale. All lands within the boundary of a certified survey or plat created for the purpose of development or sale of property where multiple, separate and distinct land developing activity may take place at different times and on different schedules.
- (e) Design Storm. A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total rain depth.
- (f) Discharge Volume. The quantity of runoff discharged from the land surface as the result of a rainfall event.
- (g) Financial Guarantee. A performance bond, maintenance bond, surety bond irrevocable letter of credit, or similar guarantee submitted to the Village by the

permit holder to assure that requirements of the Ordinance are carried out in compliance with the stormwater management plan.

(h) Grass Aggregate Area. The total area, in acres, of all land located within property boundary containing the land development activity.

(i) Groundwater Enforcement Standard. A numerical value expressing the concentration of a substance in groundwater which is adopted under Wis. Stats. 160.07 and Wis. Admin. Code § NR 140.10 or Wis. Stats. § 160.09 and Wis. Adm Code § NR 140.12.

(j) Groundwater Preventive Action Limit. A numerical value expressing the concentration of a substance in groundwater which is adopted under Wis. Stats. 160.15 and Wis. Admin. Code Secs. NR 140.10, 140.12 or 140.20.

(k) Impervious Surface. A surface that releases the rainfall as Surface runoff during a large portion of the design rainfall event. Rooftops, sidewalks, parking lots, and street surfaces are examples of impervious surfaces.

(l) Infiltration. The process by which rainfall or surface runoff percolates or penetrates into the underlying soil.

(m) Land Development Activity. The construction or re-development of building roads, parking lots, paved and unpaved areas and similar facilities not including agricultural activity.

(n) Maintenance Agreement. A legal document that is filed with the County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(o) Non-Storm Discharge. A discharge to the storm sewer system created by some process other than stormwater runoff.

(p) Non-Structural Measure. A practice, technique, or measure to reduce the volume peak flow rate, or pollutants in stormwater that does not require the design or installation of fixed stormwater management facilities.

(q) Off-Site. Located outside the property boundary described in the permit application for land development activity.

(r) Other than Residential Development. Development of the following land uses: commercial; industrial; government and institutional; recreation; transportation, communication and utilities.

(s) On-Site. Located within the property boundary described in the permit application for the land development activity.

(t) Peak Flow Discharge Rate. The maximum rate of flow or surface water at which a unit volume of stormwater is discharged resulting from a storm event.

(u) Pervious Surface. A surface that infiltrates rainfall during a large portion the design rainfall event. Well managed lawns, fields and woodlands are example pervious surfaces.

(v) Post-Construction Stormwater Discharge. Any stormwater discharged from a site following the completion of land disturbing construction activity and final site stabilization.

(w) Post-Development Condition. The extent and distribution of land cover types, anticipated to occur under conditions of full development that will influence stormwater runoff and infiltration.

(x) Pre-Development Condition. The extent and distribution of land cover type present before the initiation of land development activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

(y) Site Restriction. Any physical characteristic which limits the use of a stormwater best management practice as prescribed in the Wisconsin Storm Water Manual.

(z) Stormwater Management Plan. A document that identifies what actions be taken to reduce stormwater quantity and pollutant loads from land development activity to levels meeting the purpose and intent of this Ordinance.

(aa) Stormwater Runoff. That portion of the precipitation falling during a rainfall event or that portion of snow-melt that runs off the surface of the land and into natural or artificial conveyance or drainage network.

(bb) Wetlands. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which soils indicative of wet conditions. These wetlands include natural, mitigated, and restored wetlands.

(cc) Wetland Functional Value. The type, quality and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation and education.

24.04 APPLICABILITY AND JURISDICTION. (1) Applicability. This Ordinance applies to land development activities which meet entire applicability criteria specified in this section. The Ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale that meets any of the following applicability criteria, even through multiple, separate and distinct land development activities may take place at different times on different schedules:

(a) Residential land development with a gross aggregate area of five acres or more.

(b) Residential land development with a gross aggregate area of at least three acres but less than five acres, if there are at least 1.5 acres of impervious surfaces.

(c) Land development, other than a residential land development, with a gross aggregate area of 1.5 acres, if there are at least 1.5 acres or more.

(d) Land development activity of any size that, in the opinion of the Superintendent of Public Works is likely to result in stormwater runoff which exceeds the safe capacity of the existing drainage facilities or receiving body of water, which causes undue channel erosion which endangers property or public safety.

(e) Land development activity with a gross aggregate area of .5 acres or more, but less than the area of (1), (2) or (3) above is

subject to payment of fees in lieu of site stormwater management practice pursuant to Chapter 24.04 (d).

(2) Jurisdiction. This Ordinance applies to land development activities within the boundaries of the Village. This Ordinance also applies to all lands located within the extraterritorial plat approval jurisdiction of the Village, even if plat approval or land division is not involved.

24.05 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS.

The following methods shall be used in designing components of stormwater structures needed to meet the water quantity standards of this Ordinance:

(1) Peak flow reducing components and all other stormwater management structures shall be designed in accordance with standard engineering practice.

(2) Runoff volumes and peak flow rates used in designing the water quantity components of storm water structures shall be based on the principles of the document entitled "Urban Hydrology for Small Watersheds" (Technical Release 5 Engineering Division, Soil Conservation Service, United States Department of Agriculture, June 1992)."

24.06 STORMWATER MANAGEMENT STANDARDS. (1) Stormwater

Discharge Quantity. Unless otherwise provided for in this Ordinance, all land development activities subject to this Ordinance shall establish on-site management practices to control the peak flow rates of stormwater discharged from the site. Infiltration of stormwater runoff from driveways, sidewalks, rooftops, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows. On-site management practices shall be used to meet the following minimum performance standards:

(a) The peak flow discharge rates of stormwater runoff from the development shall not exceed those calculated for the series of design storms specified in Chapter 24.06(1)(b) and pre-development conditions specified in Chapter 24.06(1)(c). Discharge velocities must be non-erosive to discharge locations, outfall channels, and receiving streams.

(b) At a minimum, the 2 year/24 hour and the 10-year/24 hour design storms shall be used in comparing peak flow discharge rates for pre-development and post-development conditions. The discharge rate for a 100-year/24 hour design storm post development shall not exceed the discharge rate of a 10-year/24 hour pre-development design storm.

(c) Pre-development conditions for land developing activities shall assume a good level of land management. The Natural Resource Conservation Service TR-55 Method shall be used to calculate peak flow discharge rates and runoff volumes for the pre-development condition, for the Elkhart Lake area. Runoff curve numbers shall not exceed the following:

Curve Number for Meadow-58

Curve Number for Woodland-55

Curve Number for Pasture/Grain-61

Curve Number for Paved Roadways with Open Ditches*-89

Curve Number for Commercial/Business Districts*-92

Curve Number for Industrial Districts*-88

Curve Number for Residential Districts-75

*For use with re-development projects only.

(d) Increases or decreases in the hydrology of wetlands shall be minimized to the extent practical. Where such changes are proposed, the impact of the proposal on wetland functional values shall be assessed using a methodology acceptable to the Superintendent of Public Works and in conformity with Wis. Admin. Code Chap. NR 103. Significant degradation of wetland functional values shall be avoided.

(2) Exceptions. The Superintendent of Public Works may establish stormwater management requirements either more stringent or less stringent than those set forth herein, provided that at least one of the following conditions applies:

(a) The Superintendent of Public Works determines that an added level of protection is needed to protect sensitive resources.

(b) The Superintendent of Public Works determines that the land development activity is covered by an approved stormwater management system plan that contains management requirements consistent with the purpose and intent of this Ordinance.

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

(i) The facility is in place,

(ii) The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the requirements of this Ordinance.

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

(d) The Superintendent of Public Works finds that meeting the minimum on-site management requirements of this Ordinance is infeasible due to space or site restrictions.

(3) Fee in Lieu of On-Site Stormwater Management Practice. Where the site meets the size criteria of Chapter 24.04(1)(e), or the Superintendent of Public Works otherwise determines that it would be inappropriate to require a site to meet the minimum stormwater management requirements on site pursuant to Chapter 24.06(2), the applicant shall pay a fee to the Village, to be used by the Village exclusively for the cost of land, engineering design, construction and maintenance stormwater management practices.

(a) The fee shall be based upon the differing costs and requirements for managing stormwater arising from residential, commercial or industrial development. The following fees in lieu of on site stormwater management practices hereby established:

Land Use: Residential Construction Cost Per Acre \$ 890;

Land Cost Per Acre \$400; Total Cost Per Acre \$1,290.

Land Use: Commercial & Industrial Construction Cost Per Acre \$1,640; Land Cost Per Acre \$1,010; Total Cost Per Acre \$2,650.

(b) The fee shall be adjusted annually as of January 1 of each year by the Superintendent of Public Works, utilizing the Consumer Price Index -- All Urban Consumers for Small Metro Areas prepared by the United States Department of Labor.

(c) All such fees collected shall be placed in a designated fund to be used exclusively for the regional stormwater management practices to be constructed.

(4) General Considerations For On-Site and Off-Site Stormwater Management Measures.

The following considerations shall be observed in managing stormwater runoff:

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

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

24.07 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

(1) Permit Required. No landowner or operator may undertake a land develop activity subject to this Ordinance without receiving a permit from the Superintendent of Public Works prior to commencing the proposed activity.

(2) Permit Application and Fee. Unless specifically excluded by this Ordinance, any land owner or operator desiring a permit shall submit to the Superintendent of Public Works a permit application made on a form provided by the Superintendent of Public Works for that purpose.

(a) Unless otherwise excepted by this Ordinance, a permit application must be accompanied by the following in order that the permit application be considered by the Superintendent of Public Works: a stormwater management plan, a maintenance agreement, and a non-refundable permit administration fee.

(b) The stormwater management plan shall be prepared to meet the requirements of Chapter 24.08, the maintenance agreement shall be prepared to meet the requirements of Chapter 24.09, and the financial guarantee shall meet the intent of Chapter 24.10.

(c) Permit fees shall be as follows:

(i) Stormwater Management Plan without detention plan:
\$25.00

(ii) Stormwater Management Plan with detention plan:
\$50.00

(3) Review and Approval of Permit Application. The Superintendent of Public Works shall review any permit application that is submitted with a stormwater manage plan,

maintenance agreement and the required fee. The following approval procedure shall be used:

- (a) Within five business days, the Superintendent of Public Works shall determine when the applicant has submitted a complete permit application, including all items required by Chapter 24.07(2)(a). If the materials are incomplete, the Superintendent of Public Works shall inform the applicant regarding what additional materials are required.
 - (b) Within 20 business days of the receipt of a complete permit application, including all items as required by Chapter 24.07(2)(a), the Superintendent of Public Works shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved. The Superintendent of Public Works shall base the decision on requirements set forth in Chapters 24.06, 24.08 and 24.09.
 - (c) If the stormwater permit application, plan and maintenance agreement are approved, or if payment of fees in lieu of stormwater management practices is made when allowed, the Superintendent of Public Works shall issue the permit.
 - (d) If the stormwater permit application, plan, or maintenance agreement is disapproved, the Superintendent of Public Works shall detail in writing the reasons for disapproval.
- (4) Permit Conditions. All permits issued under this Ordinance shall be subject to the following conditions, and holders of permits issued under this Ordinance shall be deemed to have accepted these conditions. The Superintendent of Public Works may suspend or revoke a permit for violation of a permit condition, following written notification of the permittee. An action by the Superintendent of Public Works to suspend or revoke this permit may be appealed in accordance with Chapter 24.13.
- (a) Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, State and local laws and regulations.
 - (b) The permit holder shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.
 - (c) The permit holder shall notify the Superintendent of Public Works at least two business days before commencing any work in conjunction with the stormwater management plan, and within ten days upon completion of the stormwater management practices. If required as a special condition, the permit holder shall make additional notifications according to a schedule set forth by the Superintendent of Public Works so that practice installations can be inspected during construction.
 - (d) Stormwater management practice installations required as part of this Ordinance shall be certified 'as built' by a licensed professional engineer. Completed stormwater management practices must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and Ordinance. The administering authority shall notify the permit holder in writing of any change required in such practices to bring them into compliance with the conditions of this permit.

(e) The permit holder shall notify the Superintendent of Public Works of any significant modifications it intends to make to an approved stormwater management plan. The Superintendent of Public Works may require that the proposed modifications be submitted for approval prior to incorporation into the stormwater management plan and execution.

(f) The permit holder shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the Village, or are transferred to subsequent private owners specified in the approved maintenance agreement.

(g) The permit holder authorizes the Village to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special charge against the property as authorized under Wis. Stats. § 66.0627, or to charging such cost against the financial guarantee posted under Chapter 24.10.

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

(i) The permit holder shall permit property access to the Superintendent of Public Works designee for the purpose of inspecting the property for compliance or for performing work to bring the property into compliance with the approved stormwater management plan and this permit.

(j) Where a stormwater management plan involves changes in direction, increase in peak rate and/or total volume of runoff from a site, the Superintendent of Public Works may require the permittee to make appropriate legal arrangements with adjacent property owners concerning the prevention of endangerment to property or public safety.

(k) The permit holder is subject to the enforcement actions detailed in Chapter 24.11 if the permit holder fails to comply with the terms of this permit.

(5) Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the Superintendent of Public Works notifies the permit holder that all stormwater management practices have passed the required final inspection. If work is not commenced within 180 days, the permit shall expire. The Superintendent of Public Works may attach additional conditions before reissuing a permit.

24.08 STORM WATER MANAGEMENT PLANS. (1) Plan Requirements. The stormwater management plan required under Chapter 24.07

(2) shall contain any information the Village may need to evaluate the environmental characteristics of the area affected by land development activity, the potential impacts of the proposed development upon the quality and quantity of stormwater discharges, the potential impacts upon water resources and drainage utilities, and the effectiveness and

acceptability of proposed stormwater management measures in meeting the performance standards set forth in this Ordinance. Unless specified otherwise by this Ordinance, stormwater 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 stormwater management practices; person(s) responsible for maintenance of stormwater 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 reference to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat. Include a USGS 7.5 minute topographical map showing the property boundaries of the proposed development.

(c) Pre-development site conditions, including:

(i) One or more site maps at a scale of not less than one inch equals 100 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 conditional topographic contours of the site at a scale not to exceed two feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; watershed boundaries used in determinations of peak flow discharge rates discharge volumes from the site; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells located within 1,200 feet of stormwater detention ponds, infiltration basins, or infiltration trenches; delineation of wellhead protection area delineated pursuant to Wis. Admin. Code sec. NR 811-16.

(ii) Computations of peak flow discharge rates and discharge volumes for the 2-year/24 hour, 10-year/24 hour, and 25-year/24 hour design storm events. All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-reference the required map(s),

(d) Post-development site conditions, including:

(i) Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in

peak flow runoff rates and volumes to surface water and wetlands.

(ii) Explanation of any restrictions on stormwater management measures in the development area imposed by Wellhead protection plans and Ordinances.

(iii) One or more site maps at a scale of not less than one inch equals 100 feet showing: revised previous land use including vegetative cover type and condition; impervious land use including all buildings, structures, and pavement; revised topographic contours of the site at a scale not to exceed two feet; revised drainage network including enough of the contiguous properties to show runoff patterns through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; location and type of all stormwater management conveyance anti treatment practices, including the on-site and off-site tributary drainage area, location and type of conveyance system that will carry runoff from the drainage amid treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed bound used in determinations of peak flow discharge rates and discharge volumes; any changes to lakes, streams, wetlands, channels, ditches, and other watercourses and immediately adjacent to the site.

(iv) Computation of the runoff volume resulting from the 1.5-inch rainfall, and computations of peak flow discharge rates and discharge volumes for the 2-year/ 24 hours, 10-year/24 hours and 25-year/24 hours storm events. All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point in the development, and the geographic areas used in making time calculations shall be clearly cross-referenced to the required (s).

(v) Results of investigations of oils and groundwater required for the placement design of stormwater management measures.

(vi) Results of impact assessments on wetland functional values.

(vii) Design computations and all applicable assumptions for the stormwater conveyance (open channel, closed pipe) system.

(viii) Design computations and all applicable assumptions for stormwater quality practices (sedimentation type,

filtration-type, infiltration-type) as needed to show that practices are appropriately sized to accommodate runoff from the 1.5-inch rainfall. For practice designs that depart from those specified in the "Wisconsin Storm Water Manual, Part 2", the results of continuous simulation modeling, conducted according to the guidelines established in this manual, shall be present in such a way as to show the reduction in average annual total suspended solids loading from the developed site.

(ix) Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.

(f) A storm water practice installation schedule.

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

(h) Cost estimates for the construction, operation, and maintenance of each stormwater management practice.

(i) Other information as needed by the Superintendent of Public Works to determine compliance of the proposed stormwater management measures with the provision of this Ordinance.

(j) All site investigations, plans, designs, computations, and drawings shall be certified by a professional engineer, to be prepared in accordance with accepted engineering practice and in accordance with The Wisconsin Storm Water Manual, Part Two: Technical Design Guidelines for Storm Water BMPs (latest edition).

(i) Exceptions. The Superintendent of Public Works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Chapter 24.06 (3) of this Ordinance.

24.09 MAINTENANCE AGREEMENT. (1) Maintenance Agreement Required.

The maintenance agreement required stormwater management practices under Chapter 24.07(2) shall be an agreement between the Village and the permittee to provide for maintenance of stormwater practices beyond the duration period of this permit. The agreement shall be recorded with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the stormwater management practices.

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

(a) Identification of the stormwater facilities and designation of the drainage are served by the facilities.

- (b) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan.
- (c) Identification of the landowner(s), organization or municipality responsible for long-term maintenance of the stormwater management practices.
- (d) The landowner(s), organization, or municipality shall maintain stormwater management practices in accordance with the schedule included in the agreement
- (e) The Village is authorized to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- (f) The Village shall maintain public records of the results of the site inspections, shall inform the party responsible for maintenance of the inspection results, and specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
- (g) That if the Village notifies the party responsible for maintenance of the stormwater management system of maintenance problems which require correction, the specified corrective actions shall be taken within a reasonable time frame as by the Superintendent of Public Works.
- (h) The Village is authorized to perform the corrected actions identified in the inspection report if the party responsible for maintenance does not make the required corrections in the specified time period. The Village Clerk/Treasurer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. § 66.0627.

24.10 FINANCIAL GUARANTEE. (1) Establishment of the Guarantee. The Village may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Village Attorney, and which generally shall be an irrevocable letter of credit. The financial guarantee shall be in an amount determined by the Superintendent of Public Works, to be the estimated cost of construction and the estimated cost maintenance during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Village the authorization to use the funds to complete the project if the landowner defaults or does not properly implement the approved stormwater management plan.

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

- (a) The Superintendent of Public Works shall release the portion of the financial guarantee established to assure installation of stormwater practices, minus any costs incurred by the Village to complete installation of practices, upon submission of "as built

plans" by a licensed professional engineer. The Superintendent of Public Works may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(b) The Superintendent of Public Works shall release the portion of the financial security established to assure maintenance of stormwater practices, minus any costs incurred by the Village, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

24.11 ENFORCEMENT AND PENALTIES. (1) Any land development activity initiated after the effective date of this Ordinance by any person, firm, association, or corporation subject to the Ordinance provision shall be deemed a violation unless conducted in accordance with said provisions.

(2) The Superintendent of Public Works shall notify the responsible owner or operator by certified or registered mail of any non-complying land development 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 Superintendent of Public Works, the permit holder shall correct work which does not comply with the stormwater management plan or other provisions of this permit. The permit holder shall make corrections necessary to meet the specifications and schedule set forth by the Superintendent of Public Works in the notice. The permit holder shall initiate such corrective action within 24 hours of notification by the Village.

(4) If the violations to this Ordinance are likely to result in damage to properties, public facilities or waters of the State, the Superintendent of Public Works or designee may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Village, plus interest and legal costs, shall be billed to the owner of title of the property, and if not paid, shall be entered on the tax rolls and collected as a special charge pursuant to Wis. Stats. § 66.0627.

(5) The Superintendent of Public Works is authorized to post a stop work order on all land development activity in violation of this Ordinance, or to request the Village Attorney to obtain a cease and desist order.

(6) The Superintendent of Public Works may revoke a permit issued under this Ordinance for any non-compliance with Ordinance provisions.

(7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Superintendent of Public Works or by a Court of competent jurisdiction.

(8) The Superintendent of Public Works is authorized to refer any violation of this Ordinance, or of a stop work order or cease and desist order issued pursuant to the provisions of this ordinance, to the Village Attorney for the commencement of further legal proceedings.

(9) Any person, firm, association, or corporation who does not comply with the provisions of this Ordinance shall be subject to a forfeiture of not less than \$500 per day for each day of violation. Every violation of this Ordinance is a public nuisance. Compliance with this Ordinance may be enforced by injunctive order at the suit of the

Village pursuant to Wis. Stats, § 62.23(8). It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

(10) When the Superintendent of Public Works determines that the holder of a permit issued pursuant to this Ordinance has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the Superintendent of Public Works or a party designated the Superintendent of Public Works may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Superintendent of Public Works shall keep a detailed accounting of time, costs, and expenses of performing this work. These costs and expenses shall be deducted from any financial guarantee posted pursuant to Chapter 24.10. Where such a guarantee has not been established, or where such guarantee is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property pursuant to Wis. Stats. § 66.0627 and collected with any other taxes levied thereon for the year in which the work is completed.

24.12 APPEALS. (1) Board of Appeals. The zoning Board of Appeals shall hear and decide appeals whether it is alleged that there is error in any order, decision or determination made by the Superintendent of Public Works in administering this Ordinance. The Board of Appeals shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals.

(2) Variances. The Board of Appeals may authorize variances from the provision this Ordinance which are not contrary to the public interest, and where owing to special conditions a literal enforcement of the Ordinance will result in unnecessary hardship.

24.13 SEVERABILITY.

If any Chapter, clause, provision or portion of this Ordinance is judged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of Ordinance shall remain in force and not be affected by such judgment.