

CHAPTER 24

EROSION CONTROL AND STORM WATER MANAGEMENT

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24.01	Title.....	24-1
24.02	Authority	24-1
24.025	Additional Standards	24-1
24.03	Findings and Declaration of Policy	24-1
24.04	Purpose and Intent.....	24-2
24.05	Definitions.....	24-3
24.06	Scope of Geographic Coverage and Administration.....	24-8
24.07	Erosion Control Permits – When Required	24-9
24.08	Storm Water Management Permits – When Required	24-9
24.09	Exemptions and Clarifications.....	24-10
24.10	Pre-Application Conference.....	24-11
24.11	Erosion Control and Storm Water Management Permits and Administration	24-11
24.12	Erosion Control Plan Requirements	24-18
24.13	Storm Water Management Plan Requirements	24-21
24.14	Off-Site Storm Water Management.....	24-28
24.15	Technical Standards and Specifications	24-28
24.16	Appeals and Variances.....	24-29
24.165	Stop Work Order	24-30
24.17	Permit Fees.....	24-31
24.18	Penalties	24-32
24.19	Interpretation.....	24-32
24.20	Severability	24-33

24.01 TITLE. This Chapter shall be known as, referred to, and may be cited as the “Erosion Control and Storm Water Management Ordinance” of the Village of DeForest.

24.02 AUTHORITY. This Chapter is adopted under the authority granted by Wis. Stats. §61.354.

24.025 ADDITIONAL STANDARDS. In addition to the requirements of this Chapter, every person required to obtain a permit hereunder shall comply with all applicable performance standards promulgated by county, state, or federal agencies governing construction site erosion control and storm water runoff, as they may be amended from time to time, including, but not limited to, the regulations contained in Chapter NR 151, Wis. Admin. Code and Chapter 14 of the Dane County Code of Ordinances. Wherever the requirements of this chapter conflict with the applicable county, state or federal requirements, the more restrictive standard shall apply. Every application for a permit under this Chapter shall demonstrate compliance with all applicable standards. Where activities are not specifically addressed in this Chapter, standard practices implemented by Dane County shall apply.

24.03 FINDINGS AND DECLARATION OF POLICY.

(1) **FINDINGS.** The Village Board finds that construction site erosion and uncontrolled storm water runoff from land development activities adversely affect the water resources and the health, safety, property, and general welfare of the community, and diminish the public enjoyment and use of natural resources. Soil erosion and storm water runoff specifically can:

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

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

(c) Obstruct the Village's existing storm water drainage system, increasing maintenance problems and costs;

(d) Cause bank and channel erosion;

(e) Increase downstream flooding;

(f) Reduce groundwater recharge, thereby potentially diminishing stream base flows and lowering water levels in regional lakes, ponds, and wetlands;

(g) Contaminate drinking water supplies;

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

(i) Cause damage to agricultural fields and crops.

(2) **DECLARATION OF POLICY.** The Village Board finds and declares that effective erosion control and storm water management depends on proper planning and design, and the timely installation of conservation and management practices and their continuing maintenance.

24.04 PURPOSE AND INTENT.

(1) **PURPOSE.** The purpose of this Chapter is to diminish threats to public health and safety, public and private property, and the natural resources of the Village and the territory subject to its extraterritorial review by prescribing minimum requirements for safe construction site erosion control and storm water management.

(2) **INTENT.** This Chapter is intended to regulate construction site erosion and storm water runoff and to accomplish the following objectives:

(a) Promote storm water management within the areas subject to this Chapter;

(b) Minimize the effects of sedimentation, water pollution from nutrients, heavy metals, chemical and petroleum products and other contaminants, flooding, and thermal impacts to the areas subject to this Chapter;

- (c) Promote infiltration and groundwater recharge;
- (d) Protect functional values of natural water courses and wetlands;
- (e) Provide a set of performance standards that are consistent with the standards set forth by Dane County;
- (f) Ensure there will be no increase in temperature of storm water post-construction in order to protect cold water communities;
- (g) Ensure there will be no increase in the rate of surface water drainage from sites during or after construction; and
- (h) Protect public and private property from damage resulting from runoff or erosion.

24.05 DEFINITIONS. As used in this Chapter, the following terms are defined as follows:

- (1) “AFFECTED” or “AFFECT” means that a regulated activity:
 - (a) Has significantly caused or may cause negative impacts on water quality or on the use or maintenance of a property or business; or
 - (b) Has endangered or may endanger one’s health, safety, or general welfare.
- (2) “AGRICULTURAL” means related to or used for the production of food or fiber, including, but not limited to, general farming, livestock and poultry enterprises, grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production, cranberry productions and wild crop harvesting. Clearing and grubbing of an area and structural development are not considered agricultural activities for purposes of this Chapter.
- (3) “AVERAGE ANNUAL RAINFALL” means measured precipitation in Madison, Wisconsin between March 12 and December 2, 1981.
- (4) “BANK EROSION” means the removal of soil or rock fragments along the banks or bed of a stream channel by high flow after rain events.
- (5) “BEST MANAGEMENT PRACTICE” means the most up-to-date practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. Such practices can include structural, vegetative or operational practices.
- (6) “COLD WATER COMMUNITY” means surface waters capable of supporting a community of cold water fish and other aquatic life, or serving as a spawning area for cold water fish species as provided in §NR 102.04(3)(a) Wisconsin Administrative Code).
- (7) “CONNECTED IMPERVIOUSNESS” means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

(8) "CONSTRUCTION SITE EROSION CONTROL" means a method of preventing or reducing soil erosion and sedimentation from land disturbing activity.

(9) "DEVELOPMENT" means any of the following activities:

(a) Structural development, including construction of a new building or other structure.

(b) Expansion or alteration of an existing structure that results in an increase in the ground surface dimensions of the building or structure;

(c) Land disturbing activities;

(d) Any activities regulated under Chapter 13; or

(e) Creation or expansion of impervious surfaces.

(10) "DIRECT CONDUITS TO GROUNDWATER" means wells, sinkholes, swalletts, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

(11) "EFFECTIVE INFILTRATION AREA" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(12) "EROSION" or "SOIL EROSION" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

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

(14) "EXISTING DEVELOPMENT" means any building, structure, or other impervious areas existing prior to August 21, 2001.

(15) "FILL" means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved to a new location, other than by acts of nature, and shall include the resulting conditions.

(16) "FINANCIAL SECURITY INSTRUMENT" means a surety bond, performance bond, maintenance bond, irrevocable letter of credit, cash escrow, or similar guarantee submitted to the Village to assure that the requirements of this Chapter are carried out in compliance with an approved plan. The form of any required financial security shall be determined at the sole discretion of the Village, except as otherwise limited by State law.

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

(18) "GULLY EROSION" means a severe loss of soil caused by or resulting in concentrated surface water flow of sufficient velocity to create a defined flow channel.

(19) "HEAVILY DISTURBED SITE" means a site where an area of land is subjected to significant compaction due to the removal of vegetative cover or earthmoving activities, including filling.

(20) "HYDROLOGIC SOIL GROUP (HSG)" has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

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

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

(23) "INFILTRATION," for the purposes of this Chapter, refers to any precipitation that does not leave the site as surface runoff.

(24) "INFILTRATION SYSTEM" means a device or practice including but not limited to a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns, or minimal infiltration from practices such as swales or road side channels designed for conveyance and pollutant removal only.

(25) "KARST FEATURE" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

(26) "LAND DISTURBING ACTIVITIES" or "LAND DISTURBANCE" means any land alterations or disturbance that may result in soil erosion, sedimentation, or change in runoff, including, but not limited to, tilling, removal of ground cover or other vegetation, grading, excavating, and filling of land.

(27) "LANDOWNER" or "OWNER OF PROPERTY" means any person having any pecuniary interest in lands regulated by this Chapter.

(28) "MAXIMUM EXTENT PRACTICABLE (MEP)" A level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to

meet performance standards and may vary based on the performance standard and site conditions.

(29) "NON-EROSIVE VELOCITY" means a rate of flow of storm water runoff, usually measured in feet per second, that does not erode soils. Non-erosive velocities vary for individual sites due to differences in topography, soil type, and/or runoff rates.

(30) "PARCEL" means any defined area of land regardless of the manner of its legal description.

(31) "PEAK FLOW" means the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the predetermined storm or flood measured in cubic feet per second (cfs).

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

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

(34) "PERVIOUS SURFACE" means any land cover other than gravel that permits rain or melting snow to soak into the ground.

(35) "PLAN" means an erosion control plan required by §24.12 or a storm water management plan required by §24.13.

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

(37) "PRE-DEVELOPMENT" refers to the extent and distribution of land cover types present before the initiation of the proposed land development activity, assuming that all land uses prior to land disturbing activity are in "good" condition as described in the Natural Resources Conservation Service Technical Release 55, "Urban Hydrology for Small Watersheds" (commonly known as TR-55). This term is used to match pre- and post-development storm water peak flows as required by this Chapter. In a situation where cumulative impervious surfaces created after August 21, 2001 exceeds the 20,000 sq. ft threshold, the pre-development conditions shall be those existing on August 21, 2001.

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

(39) "REDEVELOPMENT" means any construction, alteration or improvement exceeding four thousand (4,000) square feet of land disturbance performed on sites where the existing site is predominantly developed as commercial, industrial, institutional or multifamily residential uses. Projects may include a mix of redevelopment and new impervious surfaces. New impervious surfaces added as a result of redevelopment are subject to §24.08.

(40) "REIMBURSEMENT AGREEMENT" means the signed agreement submitted with an application for an erosion control or stormwater management permit, in which the applicant acknowledges the Village policy to assign consultant costs to the applicant in order to cover the costs of reviewing development applications, and agrees to reimburse those expenses.

(41) "RUNOFF CURVE NUMBER (RCN)" has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

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

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

(44) "SHEET AND RILL EROSION" means a loss of soil caused by sheet flow or shallow concentrated flow, and is characterized by an absence of channeling or a relatively uniform loss across the exposed upper layer of the soil or shallow irregular scouring of the soil surface.

(45) "SITE" means the bounded area described in an erosion control plan or storm water management plan.

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

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

(48) "STAY-ON" means the portion of the annual rainfall (inches) on the site that must be infiltrated on an annual basis to meet the infiltration goal.

(49) "STORM EVENTS" mean the precipitation amounts that are statistically predicted to occur over a 24-hour period having a specified recurrence interval for Dane County, Wisconsin. For example, one-year, two-year, 10-year and 100-year storm events mean the precipitation amounts that occur over a 24-hour period that have a predicted recurrence interval of one, two, 10 and 100 years, respectively.

(50) "STORM WATER" means the flow of water resulting from, and occurring during and immediately following, a rainfall, snow-melt or ice-melt event.

(51) "STORM SEWER" means a closed conduit for conveying collected storm water.

(52) "STORM WATER MANAGEMENT FACILITY" means any constructed element in a storm water drainage system.

(53) "STORM WATER DRAINAGE SYSTEM" means all of the facilities used for conducting storm water to, through or from a drainage area to the point of final outlet, including but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, reservoirs, detention basins or ponds, streets, storm sewers, and pumping stations.

(54) "STORM WATER MANAGEMENT" means any measures taken to permanently reduce or minimize the negative impacts of storm water runoff quantity and quality after land development activities.

(55) "STORM WATER RUNOFF"/ "RUNOFF" means the waters derived from rains falling or snow or ice melting within a drainage area, flowing over the surface of the ground and collected in channels, watercourses, or conduits.

(56) "STREET RECONSTRUCTION" means removal and replacement of the road subgrade, where existing storm water drainage facilities are modified.

(57) "STRUCTURE" means any human-made object with form, shape and utility, either permanently or temporarily attached to, placed upon, or set into the ground, stream bed, or lake bed.

(58) "UNNECESSARY HARDSHIP" means that circumstance where special conditions, not created by the current or past property owner(s), affect a particular property and make strict conformity with the regulations of this Chapter unnecessarily burdensome or unreasonable in light of the purposes of this Chapter.

(59) "WETLAND" means 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 has soils indicative of wet conditions. Wetlands include natural, mitigation and restored wetlands as designated by a qualified wetland professional.

(60) "ZONING ADMINISTRATOR" means the duly appointed Zoning Administrator for the Village or any professional consultant designated by the Zoning Administrator to carry out any of the analyses or other functions assigned to the Zoning Administrator under this chapter.

(61) "ZONING CODE" means Chapter 15 of the Village's Municipal Code adopted for the purpose of regulating the use of land.

24.06 SCOPE OF GEOGRAPHIC COVERAGE AND ADMINISTRATION.

(1) SCOPE OF GEOGRAPHIC COVERAGE. Unless specifically excluded herein, this Chapter applies to all land disturbing and land developing activities occurring within the corporate limits of the Village, and outside of such corporate limits to the extent authorized by any extraterritorial zoning ordinance administered by the Village or any intergovernmental agreement or cooperative plan under §66.0301 or §66.0307, Wis. Stats., respectively.

(2) Where the standards of this ordinance differ or conflict with applicable local land division, zoning or other applicable local ordinances or state regulations, the more restrictive standard shall apply.

24.07 EROSION CONTROL PERMITS – WHEN REQUIRED. Unless expressly exempted by §24.09, an erosion control permit under §24.11 shall be required for, and all construction site erosion control provisions of this chapter shall apply, to any of the following activities:

- (1) Any land disturbing activity in excess of 4,000 square feet.
- (2) Any land disturbing activity on a slope of greater than 12% regardless of the area of disturbance.
- (3) Any land disturbing activity involving the excavation or filling, or a combination of excavation and filling, of material in excess of 400 cubic yards.
- (4) Any land disturbing activity that disturbs more than 100 lineal feet of road ditch, grass waterway, or other land area where the surface drainage flows in a defined open channel, including the placement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel.
- (5) Any new public or private road or access drives longer than 125 feet.
- (6) Any development of a parcel subject to the requirements of, and regulated by, Chapter 13 of this Code.
- (7) Any land disturbing activity that disturbs less than 4,000 square feet of land, if the Zoning Administrator determines that such activity has a high risk of soil erosion or water pollution, or may adversely affect a lake, stream, creek, wetland area, or adjacent properties. Examples of activities with a high risk of soil erosion or water pollution may include, but are not limited to, land disturbance on erodible soil or disturbance adjacent to lakes, rivers, streams, creeks, or wetlands. All such determinations made by the Zoning Administrator shall be in writing, unless waived by the applicant.

24.08 STORM WATER MANAGEMENT PERMITS -- WHEN REQUIRED.

(1) Unless expressly exempted by §24.09, a storm water management permit under §24.11 shall be required for, and all storm water management provisions of this chapter shall apply to, any of the following activities:

- (a) Any development that results in the cumulative addition of 20,000 or more square feet of impervious surface to the site.
- (b) Any division of land for development that is subject to the provisions of Chapter 13 of the DeForest Municipal Code. Any final plat not approved on or before the effective date of this Chapter shall be subject to the storm water management performance standards prescribed by this Chapter, whether or not those standards are met by an approved preliminary plat.

(c) Redevelopment, as defined in Section 24.05 (42).

(d) Any other land development activities, including but not limited to redevelopment or alteration of existing buildings and other structures, that the Zoning Administrator determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution, or property damage, or may adversely affect a lake, stream, creek, wetland area, or adjacent properties. All such determinations by the Zoning Administrator shall be made in writing unless waived by the applicant.

24.09 EXEMPTIONS AND CLARIFICATIONS.

(1) ALL REQUIREMENTS. The requirements of this Chapter shall not apply to any activity directly related to the planting, growing and harvesting of agricultural crops, unless the Zoning Administrator makes a written determination that the activity may result in undue erosion of or sedimentation on any adjoining property, may adversely affect a lake, stream, creek, or wetland area, or may otherwise endanger the downstream property owners or their property.

(2) EROSION CONTROL. The following activities are exempt from the construction site erosion control provisions of §§24.07, 24.11 and 24.12:

(a) One- and two-family dwelling unit projects regulated under the Wisconsin Uniform Dwelling Code (“UDC”). Land disturbing activities in excess of one (1) acre, or not associated with the construction of a dwelling, are not exempt from this Chapter.

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

(c) Projects subject to an approved shoreland erosion control permit under Chapter 25.

(d) Agricultural development not subject to §24.08 (1) (b).

(e) Municipal road or county highway projects not otherwise exempted under §24.09(2)(b) are exempt from §24.13(2)(a)3. where all of the following conditions are met:

1. The purpose of the project is only to meet current state or federal design or safety guidelines;

2. All activity takes place within existing public right-of-way.

3. All other requirements of §24.13 are met; and

4. The project does not include the addition of any new driving lanes.

(f) Soil conservation, stream and adjacent wetland protection and restoration practices such as terraces, run-off diversion, grassed waterways, cattle and equipment crossings, cattle watering access, water control structures, dikes, ditch plugs, tile breaks and sediment removal catchments, when implemented according to plans and design approved

by the Natural Resources Conservation Service or US Fish and Wildlife Service or WDNR, or Dane County Land and Water Resources Department, provided that any such project involving land disturbing activity equal to or greater than one acre shall also comply with performance standards in 24.12 (3).

(3) **INFILTRATION EXEMPTIONS.** The following activities are exempt from the infiltration standards described in §24.13(2) (a) 6.

(a) Redevelopment sites.

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

(c) Agricultural development.

(d) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the proposed infiltration system where the soil layer is not easily moved or manipulated.

(e) Parking areas, access roads and driveways less than 5,000 square feet serving commercial and industrial development.

(f) Roads serving commercial, industrial, and institutional land uses, and all arterial streets as defined in Section 13.03(3).

24.10 PRE-APPLICATION CONFERENCE. An applicant for a permit issued under this Chapter may request a pre-application conference with Village staff. The purpose of a pre-application conference is to afford the applicant an opportunity to become familiar with the purpose and objectives of this Chapter, and to allow Village staff to become familiar with the proposed activity. This meeting is intended to assist an applicant in preparing general site plans and other submittals necessary to obtain a required permit under this Chapter. A pre-application conference does not guarantee that an erosion or storm water control plan will be approved or that a permit will be issued. Erosion and storm water control plans and permit applications must meet all applicable standards and criteria for approval.

(1) The Zoning Administrator may charge a fee to compensate for the cost of the preliminary review documents or meetings.

(2) The Zoning Administrator may require a floodplain determination for locations in proposed developments with one square mile or greater of tributary drainage.

24.11 EROSION CONTROL AND STORM WATER MANAGEMENT PERMITS AND ADMINISTRATION.

(1) **START OF LAND DISTURBING ACTIVITY.** No activity meeting the criteria described in §24.07 or 24.08 shall occur and no zoning permit may be issued, until the required erosion control and/or storm water management permit is issued by the Zoning Administrator.

(2) APPLICATION MATERIALS. The applicant shall provide all of the following as part of an application for a permit:

- (a) A completed application form including all of the following:
 - 1. The application must be signed by the landowner or include a notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent and to submit the application on the landowner's behalf. Such notarized statement shall also clearly state that the landowner accepts responsibility for compliance with all requirements of this Chapter and the terms of any permit issued to the agent. By signing the application, the landowner and, whenever appropriate, the landowner's agent also expressly grant permission to any Zoning Administrator to enter the property at any reasonable time for the purpose of gathering any information or data needed to assist the Village in evaluating the application and its supporting documentation or enforcing any permit subsequently issued.
 - 2. If a landowner appoints an agent to submit an application pursuant to (2)(a)1., the landowner shall be bound by all of the requirements of this chapter and the terms of any permit issued to the agent.
- (b) Fees as established by the Village Board;
- (c) A signed reimbursement agreement;
- (d) If required by §24.07, an erosion control plan meeting all the standards of §24.12, or a simplified checklist if permitted by §24.12;
- (e) If required by §24.08, a storm water management plan meeting all of the standards of §24.13 and a draft maintenance agreement as described in §24.13(1)(l);
- (f) Copies of permits or permit applications or approvals required by any other governmental entity;
- (g) A proposed timetable and schedule for completion and installation of all elements of approved erosion control and storm water management plans, and a detailed schedule for completion of all construction on the project;
- (h) An estimate of the cost of completion and installation of all elements of the proposed erosion control and storm water management plans; and
- (i) Evidence of financial responsibility to complete the work proposed in the plan. As a condition of permit approval, the Village may require the filing of a financial security instrument sufficient to guarantee completion of the project. If the Village intends to accept dedication of the improvements after completion, the filing of such a security shall be mandatory. The financial security instrument, if required, shall remain in force until all of the work has been completed and inspected by the Zoning Administrator or for a period of one year after completion and inspection of the required improvements if the Village accepts dedication, unless the Village partially releases the guaranty under sub. (7)(e). Any required security shall be furnished on or before the date of actual issuance of the permit. It shall be

in an amount equal to 120% of the estimated actual cost of all of the required elements of the approved plan and shall specifically guarantee:

1. the installation and completion of all the required work specified in the approved plan and
2. the quality and workmanship of the work and improvements for one year following their acceptance by the Village, if the Village agrees to accept such dedication.

(j) The cost of all elements of the work, including quantities and unit prices, shall be furnished by the applicant and shall be verified by the Local Approval Authority.

(3) APPLICATION REVIEW / APPROVAL PROCESS.

(a) The Zoning Administrator shall verify that the permit application is complete under §24.11(2). The Zoning Administrator shall review the plan(s) for compliance with the standards identified in §§24.12 - 24.13.

(b) Within 30 business days after submission of a complete application, the Zoning Administrator shall either approve the submitted plan or notify the applicant of any deficiencies and provide an opportunity for correction of any deficiencies. Staff engaged in this review and approval process shall be certified where appropriate by the Wisconsin Department of Commerce credential and licensing for this purpose.

(c) Where installed storm water practices will be privately-owned, a maintenance agreement which describes the property by legal description, notifying future prospective purchasers of the existence of a storm water permit issued under this Chapter and applicable plan, timetables and potential liability imposed by §24.165(3) for failure to bring the property into compliance with this Chapter after notification, shall be recorded with the Dane County Register of Deeds prior to issuance of a final permit.

(d) Upon approval of the plan, and the recording of any legal title and maintenance agreement documents required under sub. (3)(d), the erosion control or storm water management permit shall be issued by the Zoning Administrator after the applicant has met all other requirements of this Chapter.

(4) PERMIT CONDITIONS. The following conditions apply to all permits issued under this Chapter:

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

(b) The permittee shall be responsible for the successful implementation and completion of all elements of the approved plan and all costs associated with such project, including the review of proposed plans. The permittee shall be liable for all property

damage and costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.

(c) As explicitly provided by the application form, an issued permit shall constitute express permission by the permittee and the landowner for any Zoning Administrator to enter the property for purposes of inspection under sub. (7) or corrective action under §24.165(3).

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

(e) The permittee shall be responsible for maintaining all roads, road rights-of-way, streets, and storm water drainage facilities as specified in the approved plan until they are accepted and become the responsibility of the Village or other governmental entity.

(5) PLAN OR PERMIT AMENDMENTS. Any proposed modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the Zoning Administrator prior to implementation of said changes.

(6) PERMIT DURATION.

(a) Unless the Zoning Administrator otherwise stipulates, an approved permit shall be valid for a period of 12 months from the date of issuance and all work must be completed prior to the expiration date of the permit. The Zoning Administrator may extend the expiration date of the permit upon finding that such an extension will not cause an increase in erosion, sedimentation, or runoff beyond the amounts approved in the original permit. The Zoning Administrator may require modifications to the plan to prevent any increase in sedimentation, erosion, or runoff resulting from extension of the permit duration.

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

(c) The Zoning Administrator may revoke any permit granted under this Chapter if he/she finds that the permittee:

1. has misrepresented any material fact in the permit application or plan,
2. has failed to comply with the provisions of this Chapter,
3. has failed to comply with the plan as originally approved or as subsequently modified, or
4. has violated any of the other terms of the permit imposed as a condition of its approval.

(d) A copy of the approved permit and erosion control plan shall be kept on the project site, in a place readily accessible to contractors, engineers, Zoning Administrator inspection staff and other authorized personnel.

(7) INSPECTIONS, SECURITY, ACCEPTANCE AND MAINTENANCE.

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

(b) Erosion Control and Storm Water Management Inspections. The Zoning Administrator or its designated representative shall perform inspections during the construction or installation phase of any permitted activity to determine the permittee's compliance with the approved plan and the requirements of this Chapter. Inspections shall be made approximately bi-weekly, or more frequently as determined by the Zoning Administrator. The Permittee shall be responsible for the costs of the inspections subject to the terms of the Reimbursement Agreement. The permittee shall inspect the site weekly, and prior to every forecasted rain fall of ½ inch or greater.

(c) Final Inspection – Erosion Control. Within 10 days after installation of all practices in an erosion control plan and achievement of soil stabilization, the permittee shall notify the Zoning Administrator of final completion of the erosion control permit requirements. The Zoning Administrator shall inspect the property within 10 days of notification to verify compliance with the erosion control plan.

(d) Final Inspection - Storm Water Management. Within 30 days after the installation of all of the storm water management measures specified in an approved plan, the permittee shall notify the Zoning Administrator of such completed installation and submit record drawings documenting the construction. The person who designed the storm water management measures for the permittee shall submit a certification that the constructed storm water management practices and conveyance systems substantially comply with the specifications included in the approved plan. At a minimum, the certification shall include a set of record drawings comparing the approved storm water management measures with those constructed. The permittee shall submit any other information as required by the Zoning Administrator within 10 days after such request. A Zoning Administrator shall then inspect the property to verify compliance with the plan within 10 days after such notification or within 10 days after all additionally requested information has been submitted.

(e) Acceptance of Improvements.

1. The Village Director of Public Services may accept dedication of all storm water management measures and conveyance facilities and systems after fully constructed, inspected, and approved. Unless otherwise provided in a written agreement between the Village and the permittee, no detention pond or other permanent man-made facility designed for controlling stormwater from more than one lot shall be accepted until at least 80 percent of the lots in the development served by such facilities have been sold and a

professional engineer has certified to the Village that all of the following conditions are met with respect to the facility:

- a. The facility is functioning properly in accordance with the plans and specifications approved by the Village.
 - b. Any required plantings are adequate, well-established, and reasonably free of invasive species to the maximum extent practical.
 - c. Any necessary maintenance, including removal of construction sediment, has been properly performed.
2. The Village's acceptance of such improvements shall be conditioned on the permittee filing lien waivers and appropriate affidavits as evidence that no claims, actions, or demands for damages arising out of or in any way related to the installation of the storm water management measures and conveyance systems exist and that no monies are owed to any contractor, surveyor, mechanic, subcontractor, supplier, or laborer in connection with the installation.
 3. The Village may, at its option, require the landowner to retain ownership of all storm water management measures and conveyance facilities and systems and to maintain them after fully constructed, inspected, and approved. Such improvements, however, shall be subject to periodic Village inspections and, as necessary, Village orders for repairs. In the event the owner shall fail to comply with any order issued by the Village for such repairs, the Village shall have the option to complete the repairs and collect the full cost thereof from the owner by levy of a special charge against the property.

(f) Security.

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

- a. A written application for a partial release is filed with the Village Clerk; and
- b. The remaining security will be sufficient to cover any potential corrective work required during the guaranty as determined by the Zoning Administrator. Under no circumstances shall more than 90% of the furnished security be released before the expiration of the guaranty period.

(g) *Guaranty Period.* The security furnished by the permittee, whether subject to a partial release or not, shall, except to the extent prohibited by law, be retained by the Village for a period of one year following the Village's acceptance of the required improvements to guarantee them against defects in workmanship and materials. If any

defect appears during the guaranty period, the permittee shall, at his or her expense, install replacements or perform acceptable repairs. If the permittee fails to make repairs, the Village may do so and may charge the cost thereof to the permittee and deduct such costs from any security on deposit. Unless defects have appeared and have not been repaired, the Village shall release the security to the permittee upon expiration of the one-year guaranty period.

(8) PERMIT TRANSFERS.

(a) Definition. For purposes of this sub. (b), the term “landowner” includes both the current owner of property subject to a permit issued under this section and the current permittee if the permit was issued to an agent of the property owner, unless the context or subject matter clearly indicates otherwise.

(b) Notification of Plan and Transfer. If a landowner intends to transfer ownership, possession or control of property subject to an approved plan, the landowner shall provide a copy of the plan to the intended successor in interest, inform the intended successor in interest in writing of the current status of compliance with the plan, and notify the Zoning Administrator in writing of the intended transfer. Until such intended transfer is effectuated, the landowner shall continue to be responsible for controlling soil erosion and runoff and complying with the requirements of the approved plan and the standards provided in this Chapter.

(c) Method of Transfer.

1. If a landowner transfers ownership, possession, or control of property subject to an approved plan but prior to final implementation of that plan, the outstanding permit shall be deemed null and void, all land development activity shall cease, and the property shall be restored to its original, pre-land development condition subject to the requirements of this Chapter, including the controlling of soil erosion and runoff, unless any of the following conditions is met prior to the actual date of transfer:
 - a. Subject to the requirements of sub. (3) and (4), the transferee files and secures approval of a new permit and plan;
 - b. Subject to Subparagraph 2, the Zoning Administrator agrees to name the transferee as an additional permittee on the outstanding permit and allows the transferee to complete that portion of the approved plan regulating soil erosion and runoff on the transferee’s property. As a condition of naming the transferee on the outstanding permit, the Zoning Administrator may require that the transferee or the landowner furnish an irrevocable letter of credit, bond or certified check in an amount equal to 120% of the estimated cost to complete the work proposed in the approved plan as determined by the Zoning Administrator unless security posted by the current permittee extends to the obligations of the transferee by its terms. If an approved plan is not completed as proposed, the Village may use the funds available through the letter of credit, bond or certified check provided by the

transferee or landowner to complete the remaining work to achieve plan compliance.

2. Even if a transferee is named as additional permittee under Subparagraph 1.b, the Village shall continue to deem the landowner as being equally responsible for controlling soil erosion and runoff and complying with the requirements of the approved plan and the standards provided in this Chapter until the plan work is completed on the transferee's property.

24.12 EROSION CONTROL PLAN REQUIREMENTS.

(1) **PLAN MATERIALS.** Erosion control plans required under §24.07 may include the consideration of the cooperative efforts of adjoining landowners to control the transport of sediment, and except as specifically exempted in sub. (2), shall include at a minimum the following information:

- (a) Property lines, lot dimensions, and limits of disturbed area;
- (b) Limits and area of impervious area, including buildings. Include all public and private roads, interior roads, driveways, parking lots, and indicate type of paving and surface material;
- (c) All natural and artificial water features including, but not limited to, lakes, ponds, streams (including intermittent streams), and ditches; and areas of natural woodland or prairie. The plan must show ordinary high-water marks of all navigable waters, 100-year flood elevations, a WDNR Wetland Inventory map of the site and any delineated wetland boundaries. A certified flood zone determination and/or wetland delineation may be required at the applicant's expense;
- (d) Cross sections of and profiles of channels, swales, and road ditches;
- (e) Culvert and storm sewer sizes;
- (f) Direction of flow of runoff;
- (g) Watershed size for each drainage area;
- (h) Design discharge for ditches and structural measures;
- (i) Runoff velocities;
- (j) Fertilizer and seeding types, rates and recommendations;
- (k) Time schedules for stabilization of ditches and slopes;
- (l) Description of methods by which sites are to be developed and a detailed land disturbance schedule including time schedules for stabilization of ditches and slopes;

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

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

(o) Provisions to disconnect impervious surfaces, where feasible;

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

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

(r) Existing and proposed elevations (referenced to the National Geodetic Vertical Datum of 1988) and existing and proposed contours in the area, where deemed necessary;

(s) Calculations demonstrating that the erosion control performance standards under §24.12(3) will be met;

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

(2) SIMPLIFIED PLAN CHECKLIST.

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

1. The site does not exceed 20,000 square feet in area;
2. The site is not adjacent to and does not drain directly into any sensitive areas nearby, such as streams, lakes, or wetlands; and
3. Soil on slopes steeper than 6%, will be disturbed for less than 15 days.

(b) Each submitted simplified plan checklist shall be reviewed by the Zoning Administrator for completeness and accuracy.

(3) EROSION CONTROL PERFORMANCE STANDARDS.

(a) Generally. The proposed design, suggested location, and phased implementation of the erosion control measures specified in a plan shall be designed, engineered and ultimately implemented to achieve those results as provided under Paragraph (b). The Zoning Administrator shall evaluate the plan measures to determine that

they follow currently accepted design criteria and the technical standards specified under §24.15 and that they will achieve the required results under Paragraph (b).

(b) Erosion Control Performance Standards. The erosion control plan measures shall at a minimum achieve the following results:

1. Prevent gully and bank erosion;
2. Limit total off-site permissible annual aggregate soil loss for exposed areas resulting from sheet and rill erosion to an annual, cumulative soil loss rate not to exceed 7.5 tons per acre.
3. Discharges from new construction sites must have a stable outlet capable of carrying designed flow as required in §24.13(2)(a)4., at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or waterbody.

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

(d) Erosion control measures for plan approval need not attempt to regulate soil transportation within the boundaries of the applicant's site.

(e) Except as authorized in this paragraph, the topography within five feet of any property line at the commencement of any development shall remain unchanged.

1. When land disturbing activities associated with development occur within 5 feet of any property line, finished grades in that area shall be restored to the topography in existence before the land disturbing activities began, except that a positive slope is allowed within five feet of a property line where necessary to provide proper drainage away from a one or two family residence.
2. The established grade of the adjoining property shall determine the finished grade at the property line for any development. The owner of the property under development accepts responsibility for the established grade at the property line and the topography within five feet of the property line. The Zoning Administrator may require detailed site grading plans of existing and proposed conditions to be submitted prior to any land disturbing activities.

(f) Existing drainage ways and drainage easements along property lines shall be maintained including, but not limited to, natural watercourses and stormwater management areas shown on subdivision plats and certified survey maps.

(g) Development in floodplains districts requiring fill to comply with floodplain ordinance may be exempt from this subsection.

(h) Upon written application, the Zoning Administrator may authorize exceptions resulting in changes to the existing topography at and within five feet of any property line that would promote the purposes stated in this ordinance. An exception authorized under this subsection may not direct additional stormwater runoff toward adjacent properties. Proposed exceptions may include, but not limited to, retaining walls, berms and other structures, and other changes to existing grade at and within five feet of a property line. The Zoning Administrator may require the submittal of detailed site grading plans of existing and proposed conditions including, but not limited to, detailed topographical information of the subject and adjoining properties, before land disturbing activities commence.

24.13 STORM WATER MANAGEMENT PLAN REQUIREMENTS.

(1) **PLAN MATERIALS.** Storm water management plans shall satisfy all of the requirements in sub. (2), and shall provide at a minimum the following information:

(a) A table of contents / transmittal which identifies the location of the submitted information.

(b) Storm Water Management Plans must be sealed/stamped by a licensed professional engineer (P.E.).

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

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

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

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

1. Pre-development peak flow rates for the required design storms;
2. Post-development peak flow rates with no detention for the required design storms;
3. Post-development peak flow rates with detention for the required design storms;
4. Assumed runoff curve numbers (RCNs) for pre-development and post-development conditions; and
5. Time of Concentration (TC) used in calculations.

(g) Electronic Models shall be submitted along with summary calculations.

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

1. Property lines and lot dimensions;
2. All buildings and outdoor uses, existing and proposed, including all dimensions and setbacks;
3. All public and private roads, interior roads, driveways and parking lots. The traffic patterns and types of paving and surfacing material shall be labeled;
4. All natural and artificial water features, including, but not limited to, lakes, ponds, streams (including intermittent streams), creeks, and ditches. The ordinary high water marks of all navigable waters, the 100-year flood elevations, WDNR Wetland Inventory Map of the site and the delineated wetland boundaries, if any, shall be shown. If not available, an appropriate flood zone determination or wetland delineation, or both, shall be prepared by the applicant at his or her expense;
5. Depth to bedrock;
6. Depth to seasonal high water table;
7. The extent and location of all soil types as described in the Dane County Soil Survey, slopes exceeding 12%, and areas of woodland or prairie;
8. Existing and proposed elevations (referenced to the North American Vertical Datum of 1988, where available) and existing and proposed contours in the area requiring a grading and filling permit;
9. Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project;
10. Soil erosion control and overland runoff control measures, including runoff calculations as appropriate;
11. Detailed construction schedule;
12. Copies of permits or permit applications required by any other governmental entity or agency;
13. Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features;
14. Location of all storm water management practices;
15. All existing and proposed drainage features;
16. The location and area of all proposed impervious surfaces; and
17. The limits and area of the disturbed area.

(i) Calculations demonstrating that the storm water management performance standards under §24.13 (2) will be met;

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

(k) Engineered designs for all structural management practices;

(l) If required under sub. (2)(a)7, a description and plans to control the temperature of storm water runoff;

(m) A maintenance plan and schedule for all permanent storm water management measures as required in §24.11(3)(d).

(n) A summary of infiltration calculations that include the following:

1. Predevelopment infiltration volume.
2. Calculated infiltration volume goal.
3. Achieved post development infiltration volume.

(2) STORM WATER MANAGEMENT PERFORMANCE STANDARDS.

(a) Generally. The proposed design, suggested location, and phased implementation of the storm water management measures specified in a plan should be designed, engineered and ultimately implemented to achieve the results as provided under Paragraph (b). The Zoning Administrator shall evaluate the plan measures to determine that they follow currently accepted design criteria and the technical standards specified under §24.15 and that they will achieve the required results under Paragraph (b).

1. *Sediment Control.*

- a. For new development, the applicant shall design the storm water management measures to retain soil particles greater than 5 microns on the site (80% reduction) resulting from a one-year 24-hour storm event (2.5 inches over 24-hour duration), according to approved procedures, and assuming no sediment re-suspension. This requires the use of a continuous model such as SLAMM, P8 or equivalent, and the use of approved grain size distribution curves and rainfall data. These files are managed and maintained by the Wisconsin Department of Natural Resources and are available on its website.
- b. For redevelopment resulting in exposed surface parking lots and associated traffic areas, the applicant shall design the storm water management measures to retain soil particles greater than 20 microns on the entire site (40% reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment re-suspension. Under no circumstances shall the existing sediment control level or trapping efficiency of the site be reduced as a result of the

redevelopment. This requires the use of a continuous model such as SLAMM, P8 or equivalent, and the use of approved grain size distribution curves and rainfall data. These files are managed and maintained by the Wisconsin Department of Natural Resources and are available on its website.

2. *Oil and Grease Control.* For all storm water management plans for commercial or industrial developments and all other uses where the potential for pollution by oil or grease, or both, exists, the applicant shall design the storm water management measures so that the first 0.5 inches of runoff will be treated using the best oil and grease removal technology available. The oil and grease treatment requirement may be waived by the Village if the applicant can demonstrate that installation of such practices is not necessary.
3. *Runoff Curve Number.* The maximum runoff curve number (RCN) used in such calculations shall be those described in Table 1. The TR-55 specified curve numbers for other land uses shall be used. Heavily disturbed sites will be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no modifications. If practices have been implemented to restore soil structure to pre-developed conditions, no modification to the permeability class is required.

Runoff Curve Number	Hydrologic Soil Group*			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	51	68	78	83

*When dual HSG are specified, the drained condition shall be assumed.

4. *Runoff Control Rate – Design Standards.* Except for redevelopment projects, all stormwater facilities shall be designed, installed and maintained to effectively accomplish the following:
 - a. Maintain predevelopment peak runoff rates for the 1-year, 24-hour storm event (2.49 inches over 24-hour duration using the NRCS MSE4 storm distribution).
 - b. Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm event (2.84 inches over 24-hour duration using the NRCS MSE4 storm distribution).
 - c. Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm event (4.09 inches over 24-hour duration using the NRCS MSE4 storm distribution).

- d. Maintain predevelopment peak runoff rates for the 100-year, 24-hour storm event (6.66 inches over 24-hour duration using the NRCS MSE4 storm distribution).
5. Outlets. Discharges from land development sites must have a stable outlet capable of carrying designed flow as required in sub. (2)(a)4, at a non-erosive velocity. Outlet design must consider flow capacity and duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or water body.
 6. Stay-On (Infiltration).
 - a. For residential and nonresidential developments, design practices to infiltrate sufficient runoff volume so that post-development stay-on (infiltration) volume is 90% of the pre-developed infiltration volume, based upon average annual rainfall series for Madison, WI.
 - b. The maximum predevelopment RCN used in such calculations shall be those stated in Table 1.
 - c. If applicable, when designing infiltration systems, more than 2% of the site is required to be used as effective infiltration area, the applicant may alternately design infiltration systems and pervious surfaces to meet or exceed the annual pre-development recharge rate, as determined under the Wisconsin Geological and Natural History Survey's 2009 report, *Groundwater Recharge in Dane County, Estimated by GIS-Based Water Balanced Model* or subsequent updates to this report, or by a site specific analysis using appropriate techniques. If this alternative design approach is taken, at least 2% of the site must be used for infiltration.
 - d. Pre-treatment. Before infiltrating runoff, pre-treatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pre-treatment shall conform to the design standards in §24.15 in addition to protecting the infiltration system from clogging prior to scheduled maintenance and protect groundwater quality.
 - e. Prohibitions. Infiltration systems may not be installed in any of the following areas:
 - i. Areas associated with tier 1 industrial facilities identified in the Wis. Admin. Code NR 216.21(2)(a), including storage, loading, rooftop and parking.
 - ii. Storage and loading areas of tier 2 industrial facilities identified in S. NR 216.21(2)(b) Wis. Admin. Code.
 - iii. Fueling and vehicle maintenance areas.

- iv. Areas within 1,000 feet up gradient or within 100 feet down gradient of direct conduits to groundwater.
- v. Separation distances. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or top of bedrock are in accordance with Table 2, below:

Table 2. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 Feet or More	Filtering Layer
Residential Arterial Roads	5 Feet or More	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 Foot or More	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 Feet or More	Filtering Layer

- vi. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
- vii. Areas within 400 feet of a community water system well for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
- viii. Areas where contaminants are present in the soil through which infiltration will occur.
- ix. Areas where high groundwater levels exist shall be evaluated to ensure that Volume Control measures do not increase the occurrence of groundwater induced flooding on new or existing developments.

- f. Alternative use of runoff. The use of Low Impact Development Techniques is encouraged. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, rain barrels, cisterns, etc, such alternate use shall be given equal credit toward the infiltration volume required by this section.
- g. Minimizing groundwater pollution. As required by ch. NR 151, Wis. Admin. Code, infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Admin. Code. However, if site-specific information indicates that compliance with the preventive action limit is not achievable, the infiltration system may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
- h. Deep tilling or similar practices shall be implemented to restore soil structure to pre-developed conditions. The depth of tilling shall be at least 2 inches below the hardpan layer or compacted zone, as determined by a soil probe or soil penetrometer, up to a maximum depth of 36 inches. The maximum spacing of the cuts is 5 feet.
- i. Basement Flooding. Where basements are planned within the proposed development, soil borings shall be completed to determine seasonal high groundwater elevations. Soil profiles shall be evaluated by a Certified Soil Tester or equivalent. Borings shall be completed at intervals sufficient to provide an accurate representation of the site being developed. Boring locations and intervals are subject to review by the Village on a site-by-site basis. All sites or lots proposed in areas that are anticipated to have Hydric Soils shall be evaluated. Basement elevations shall be set a minimum of 2-feet above the seasonal high groundwater elevation as determined by the soil borings. The soil evaluations shall be incorporated into the required Storm Water Management Report.

7. Thermal Control.

- a. The storm water management plan shall include provisions implementing best management practices to reduce the temperature of runoff for sites located within the watershed of the following rivers or streams:
 - i. Any Cold Water Community and any Class I, Class II, and Class III Trout Streams identified in "Wisconsin Trout Stream," DNR publication PUB-FH-806-2002 or its successor or.
 - ii. Rivers or streams proposed by the Wisconsin Department of Natural Resources as Cold Water Communities and Class I, II, and III Trout Streams.

b. A current list and maps of affected watersheds shall be available for reference at the office of the Zoning Administrator.

8. WETLANDS. Wetlands shall not be used to meet any of the requirements of this Chapter.

9. INFILTRATION. Infiltration of storm water to reduce the volume of runoff will be encouraged where technically feasible through the most current Best Management Practices. If measurable infiltration can be demonstrated, the reduced runoff volume may be taken into account when designing practices to meet the peak flow and pollution control requirements of this Chapter.

(b) Stormwater Management Goals. The following standards shall be met whenever technically feasible as determined by the Zoning Administrator, and the plans shall include a proposed design, location and implementation of practices to meet these goals:

1. For existing development, design practices shall retain soil particles greater than 40 microns, (20% reduction) on the Site resulting from a one year, 24-hour storm event in accordance with WDNR technical standards, and assuming no sediment resuspension.

2. For street reconstruction the design shall retain soil particles greater than 20 microns, (40% reduction) resulting from a one-year, 24-hour storm event in accordance with WDNR technical standards, and assuming no sediment resuspension.

24.14 OFF-SITE STORM WATER MANAGEMENT

(1) OFF-SITE STORM WATER MANAGEMENT FACILITY IN PLACE. Off-site storm water management is allowed, provided that all of the following conditions for the off-site facility are met:

(a) The facility is in place;

(b) The facility is designed and adequately sized to provide a level of storm water control that at least meets the standards established by this Chapter.

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

(2) OFF-SITE STORM WATER MANAGEMENT FACILITY NOT YET IN PLACE. At the discretion of the Zoning Administrator, new development will be allowed where the off-site storm water management facility is not yet in place provided that all of the following conditions are met:

(a) A temporary on-site storm water management facility is constructed meeting the requirements of §24.13(2), except §24.13(2)(b)4.iii.

(b) The permanent off-site storm water management facility is constructed within one year of completing the new development.

(c) The temporary on-site storm water management facility is maintained until the permanent off-site storm water management facility is completed.

24.15 TECHNICAL STANDARDS AND SPECIFICATIONS. The design of all best management practices required to meet the requirements of this Chapter shall comply with the following technical standards:

(1) Natural Resources Conservation Service’s “Wisconsin Field Office Technical Guide, Chapter 4” or its successor.

(2) Applicable construction or erosion control standards by the Wisconsin Department of Natural Resources.

(3) Wisconsin Department of Natural Resources’ “Wisconsin Storm Water Manual” or its successor.

(4) Wisconsin Department of Natural Resources’ “Wet Detention Basin Conservation Practice Standard Code 1001” or its successor.

(5) The “Dane County Erosion Control and Storm Water Management Manual” or any other technical methodology approved by the Dane County Conservationist.

(6) The use of Low Impact Development (LID) techniques is encouraged in the design of the infrastructure and site improvements. Variations to the infrastructure design standards will be considered in incorporating LID techniques into the storm water BMP design.

24.16 APPEALS AND VARIANCES.

(1) APPEALS.

(a) Appeal By. Any person aggrieved or any officer, department, or board of the Village affected by the order, requirement, decision or determination made under this Chapter may appeal such action to the Village Board of Zoning Appeals. For the purpose of this Chapter, an aggrieved person shall include the applicant and, if different, the owner of the land subject to this Chapter.

(b) When. An appeal shall be filed with the Village Clerk within 30 days after the date of the challenged decision, determination or order. A nonrefundable filing fee in an amount specified in the Village’s current fee schedule resolution shall be paid at the same time the appeal is filed. The appeal shall be in writing and shall set forth the specific grounds for the appeal. A copy of the appeal shall also be filed with the Village officer who made or issued the challenged decision, determination, or order. Within 10 days after an appeal is filed, the Zoning Administrator shall file with the Village Clerk the record upon which the action appealed from was taken.

(c) Procedure. After an appeal is filed, the Village Board shall fix a time for hearing the appeal and shall cause to be published a class 2 notice of the hearing under Wis. Stats. Ch. 985. Personal notice of the hearing shall also be given to all parties in interest. Any party may appear in person or by agent or attorney at the hearing. The Village Board shall decide the appeal within a reasonable time after the hearing.

(d) Decision. The Board may, in conformity with the provisions of this Chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as necessary, and shall have all of the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be required to reverse the order, requirement, decision or determination.

(2) VARIANCES.

(a) Standards. An applicant may include in an application for a permit a request for a variance from the requirements of §24.12 or §24.13. No variance shall be granted unless the applicant demonstrates, and the Board of Zoning Appeals finds, that:

1. All of the following conditions are satisfied:

- a. Enforcement of the standards set forth in this Chapter will result in unnecessary hardship to the landowner or the permittee if not the same.
- b. The hardship is due to exceptional physical conditions unique to the property.
- c. The granting of the variance will not adversely affect the public health, safety or welfare, nor be contrary to the spirit, purpose and intent of this Chapter.
- d. The net cumulative effect of the variance will not affect downstream conditions; or

2. Existing regional facilities are shown to meet the performance standards of this Chapter.

(b) If the conditions set forth in par. (a) are met, a variance may be granted only to the minimum extent necessary to afford relief from the unnecessary hardship, with primary consideration to water quality.

(c) A variance from the provisions of §24.13(2)(a) and (b) may only be granted if:

1. The applicant has met the requirements of par. (a); and
2. The applicant will be denied all reasonable and beneficial use of the property if the variance is denied.

24.165 STOP WORK ORDER.

(1) Whenever the Zoning Administrator finds any noncompliance with the provisions of this ordinance, the Zoning Administrator shall attempt to communicate with the owner or person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the owner or person performing the work is not readily available, that person refuses to voluntarily comply immediately or the noncompliance presents an immediate danger or will cause or threatens to cause bodily injury or damage to off-site property including but not limited to, off-site runoff, the Zoning Administrator shall post in a conspicuous place on the premises and contact the owner by electronic mail from the email provided by on the application, a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until noncompliance is corrected.

(2) The stop work order shall provide the following information:

- (a) Date of issuance;
- (b) Project name, location, and permit number;
- (c) Reason for posting; and
- (d) Signature of inspector posting the order.

(3) Unauthorized removal of a stop work order from the premises shall be a violation of this ordinance.

(4) In addition to posting a stop work order, the Zoning Administrator shall provide notification to the owner or contractor by personal service, written notice by certified mail, electronic mail, or facsimile transmission.

(5) The permittee, landowner and contractor shall have 24 hours from time of notification by the Local Approval Authority to correct any noncompliance with the plan when notification is by either personal communication to the owner or contractor or their respective agents, or written notice sent by certified mail to owner or contractor.

(6) If the noncompliance is not corrected within the time period specified in sub. (5), the permittee and landowner authorize the Zoning Administrator to take any action, to perform any work, or commence any operations necessary to correct noncompliance on the subject property where notice of noncompliance has been issued to bring the property into conformance with plan requirements. The permittee and landowner further consent to reimburse the authority for the total costs and expenses of the corrective actions. Reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.

(7) If the permittee has filed an appeal under §24.16(1)(a) prior to the expiration of the time for compliance under sub. (5), the Zoning Administrator may take action, perform work or correct conditions only to the extent necessary to protect against an imminent hazard or condition that will cause or threatens to cause personal injury or damage to off-site property.

24.17 PERMIT FEES.

(1) PERMIT FEES. For an erosion control permit or a storm water control permit, a nonrefundable application fee shall be paid by the applicant in an amount as specified in the Village’s current fee schedule. The fee schedule can be obtained through the Zoning Administrator, or online on the Village website. If the permit is granted, no additional fee is required, except as provided under sub. (2).

(2) OTHER FEES. In addition to the fees specified under sub. (1), the applicant for an erosion control permit or a storm water control permit shall reimburse the Village for all administrative, engineering, inspection, consulting, and legal fees incurred by the Village in connection with the entire permit and installation process under §24.11. To guarantee payment of such fees, the applicant shall deposit such sum as listed in the Village’s current fee schedule ordinance with the Village at the time the application is submitted. If all of the expenses incurred by the Village are reimbursed timely, the fee deposit shall be refunded within 30 days after the application is rejected or a permit is issued. If the applicant fails to reimburse the Village within 30 days of any billing, the Village may reimburse itself from the funds on deposit and deduct any such reimbursement from the amount refunded to the applicant. If the applicant fails to timely reimburse the Village, and if the deposit is insufficient to cover a current billing during the permitting process, the Village shall cease all work on and review of the application until the outstanding bill is paid in full and the required deposit fund is replenished to its originally specified amount. Delinquent or unpaid charges in excess of any required deposit shall constitute a special charge for services rendered subject to imposition and collection under Wis. Stats. §66.0703(16).

24.18 PENALTIES.

(1) Any person or persons, firm, company or corporation, owner, occupant or other user of the premises who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Chapter shall be subject to a forfeiture as specified below, together with the costs of prosecution and applicable penalty assessments, fees and surcharges. The forfeiture, fees, costs, assessments and surcharges shall be ordered paid within 60 days. Each day of violation or noncompliance shall constitute a separate offense.

Simplified Erosion Control Permit	Erosion Control and/or Storm Water Management Permit
\$150/day – 1 st Notice	\$500/day – 1 st Notice
\$400/day – 2 nd Notice	\$1,000/day – 2 nd Notice
\$800/day – 3 rd Notice	\$2,000/day – 3 rd Notice

(2) Any person who has the ability to pay any forfeiture entered against him or her under this Chapter but refuses to do so may be confined in the county jail until such forfeiture is paid, but in no event to exceed ninety (90) days. In determining whether an individual has the ability to pay a forfeiture, all items of income and all assets may be considered regardless of whether or not such income or assets are subject to garnishment, lien or attachment by creditors.

(3) As a substitute for or as an addition to forfeiture actions under sub. (1) or corrective action under §24.165, the Village Attorney is authorized to seek enforcement of

any part of this Chapter by court action seeking injunctive relief. It shall not be necessary for the village attorney to take corrective action or prosecute for forfeiture before resorting to injunctive relief. [Am. 07-02; Eff. 03-23-07]

(4) Late filing fee. When an applicant or landowner begins work requiring a permit before obtaining the permit or appropriate approvals, the fee shall be doubled.

(5) Expired permit fee. When an applicant or landowner fails to establish the site according to the approved permit conditions, an after-the-fact permit is required, and application fees shall be doubled.

24.19 INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be broadly construed in favor of the Village of DeForest, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

24.20 SEVERABILITY.

The various provisions of this chapter are severable. If any section, provision or portion of this ordinance is ruled invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the applicability of the remainder of this chapter.