

## **CHAPTER 65**

## **EROSION CONTROL AND STORMWATER MANAGEMENT**

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## **CHAPTER 65**

# **EROSION CONTROL AND STORMWATER MANAGEMENT**

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### **SECTION 65.01 Authority.**

This chapter is adopted under the authority granted by § 61.34(1), 61.35, 61.354, 62.23 and 236.45. Wis. Stats.

### **SECTION 65.02 Findings.**

The Village Board finds that construction site erosion and uncontrolled stormwater runoff from land disturbing and land development activities have significant adverse impacts upon regional water resources and the health, safety, property and general welfare of the community and diminish the public enjoyment and use of natural resources. The Village Board finds that effective sediment and stormwater management depends on proper planning, design, and timely installation of conservation and management practices and their continuing maintenance. Specifically, soil erosion and stormwater runoff can:

- (a) Carry sediment, nutrients, pathogens, organic matter, heavy metals, toxins and other pollutants to regional lakes, streams and wetlands;
- (b) Diminish the capacity of water resources to support recreational and water supply uses and a natural diversity of plant and animal life;
- (c) Clog the Village's existing drainage systems, increasing maintenance problems and costs;
- (d) Cause bank and channel erosion;
- (e) Increase downstream flooding;
- (f) Reduce groundwater recharge, which may diminish stream base flows and lower water levels in regional lakes, ponds and wetlands;
- (g) Contaminate drinking water supplies;
- (h) Increase risk of property damage and personal injury; and
- (i) Cause damage to agricultural fields and crops.

### **SECTION 65.03 Purpose and Objectives.**

It is the purpose of this chapter to preserve the natural resources, to protect the quality of the waters of the state and the Village and to protect and promote the health, safety and welfare of the people to the extent practicable by accomplishing the following objectives:

- (a) Promote regional stormwater management by watershed;
- (b) Minimize sedimentation, water pollution from nutrients, heavy metals, chemical and petroleum products and other contaminants, flooding and thermal impacts to the water resources of the Village;

- (c) Promote infiltration and groundwater recharge;
- (d) Protect functional values of natural watercourses and wetlands;
- (e) Provide a set of performance standards that are consistent with or exceed the standards set forth by Dane County;
- (f) Achieve an eighty-percent reduction in sediment load rates to Dane County waters compared to no controls for all new development, a forty-percent reduction in sediment load rates compared to no controls for all redevelopment and street reconstruction, and a twenty-percent reduction in sediment load rates compared to no controls for existing developments;
- (g) Ensure no increase in temperature of stormwater post construction in order to protect cold water communities;
- (h) Ensure no increase in the rate of surface water drainage from sites during or after construction; and
- (i) Protect public and private property from damage resulting from runoff or erosion.

**SECTION 65.04 Abrogation and Greater Restrictions.**

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, ordinances or permits previously adopted or issued pursuant to law. Wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

**SECTION 65.05 Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**SECTION 65.06 Definitions.**

As used in this chapter, the following terms shall have the meaning indicated:

- (a) **Affected.** A regulated activity has significantly;
  - (1) Caused negative impacts on water quality or the use or maintenance of one's property or business; or
  - (2) Endangered health, safety, or general welfare.
- (b) **Agricultural.** Related to or used for the production of food and 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 and includes lands used for on-site buildings and other structures necessary to carry out such activities.
- (c) **Bank Erosion.** The removal of soil or rock fragments along the banks or bed of a stream channel resulting from high flow after rain events.
- (d) **Basin.** The total area drained by Black Earth Creek or the total area drained by any of its tributaries, exclusive of any other drainage area.

- (e) **Best Management Practice.** A practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. These can include structural vegetative or operational practices.
- (f) **Cold Water Community.** 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.
- (g) **Connected Imperviousness.** An impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (h) **Construction Site Erosion Control.** Preventing or reducing soil erosion and sedimentation from land development and land disturbing activity.
- (i) **Control Measure.** A structural or nonstructural practice or combination of practices to control sediment and other pollutants, manage runoff or maintain infiltration devices, wet detention basins, grit chambers, filter fences, mulching and seeding and minimize the extent and duration of disturbed areas.
- (j) **Control Plan.** A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this chapter submitted by the applicant for review and approval by the Plan Commission and Village Board.
- (k) **Effective Infiltration Area.** The area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (l) **Erosion.** The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
- (m) **Excavation.** Any act by which organic matter, earth, sand, gravel, rock or any other material is cut into, dug, quarried, uncovered, removed. Displaced, relocated or bulldozed and shall include the resulting conditions.
- (n) **Existing Development.** Buildings and other structures and impervious area existing prior to August 22, 2001.
- (o) **Fill.** An act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the resulting conditions.
- (p) **Financial Security Instrument.** An escrow account or certified check, irrevocable letter of credit, or similar guarantee submitted to the Village to assure that requirements of this chapter are carried out in compliance with the stormwater management plan.
- (o) **Gully Erosion.** A severe loss of soil caused by or resulting in concentrated flow of sufficient velocity to create a defined flow channel.
- (p) **Heavily Disturbed Site.** A site where an area of land is subjected to significant compaction due to the removal of vegetative cover or earthmoving activities, including filling.
- (q) **Hydrologic Soil Group (HGC).** Has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

- (r) **Impervious Surface.** Any land cover that prevents rain or melting snow from soaking into the ground, such as roofs (including overhangs), roads, sidewalks, patios, driveways and parking lots. For purposes of this chapter, all road, driveway or parking surfaces, including gravel surfaces, shall be considered impervious unless specifically designed to encourage infiltration and approved by the local approval authority.
- (s) **Infiltration.** For the purposes of this ordinance, refers to any precipitation that does not leave the site as surface runoff. Infiltration shall be calculated using a mathematical model as accepted by the Dane County Conservationist with input parameters as established by the Dane County Conservationist.
- (t) **Infiltration System.** A device or practice such as a basin, trench, rain garden or practice 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.
- (u) **Karst Feature.** An area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater. This may include wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, nonmetallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.
- (v) **Land Disturbing Activity.** Any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff including but not limited to removal of ground cover, grading, excavating and filling of land.
- (w) **Land User.** Any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his land.
- (x) **Lightly Disturbed Site.** A site where an area of land is subjected to minor compaction, due to the limited removal of vegetative cover or earth-moving activities.
- (y) **Local Approval Authority.** The Village staff, agency or contracted entity charged by the Village Board of Trustees with responsibility for enforcing stormwater and erosion control ordinances. Unless amended, this shall be the Zoning Administrator for the Village
- (z) **Local Land Division Ordinance.** Chapter 83 of the Cross Plains Code of Ordinances.
- (aa) **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.
- (bb) **New Development.** Any of the following activities:

- (1) Structural development, including construction of a new building or other structures;
  - (2) Expansion or alteration of an existing structure that results in an increase in the surface dimensions of the building or structure;
  - (3) Land disturbing activities; or
  - (4) Creation or expansion of impervious surface.
- (cc) **Nonerosive Velocity.** A rate of flow of stormwater runoff usually measured in feet per second, that does not erode soils. Nonerosive velocities vary for individual sites, taking into account topography, soil type, and runoff rates.
  - (dd) **Peak Flow.** The maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the predetermined storm or flood.
  - (ee) **Permittee.** The holder of a permit issued pursuant to this chapter.
  - (ff) **Pervious Service.** Any land cover that permits rain or melting snow to soak into the soil.
  - (gg) **Plan.** An erosion control plan required by Section 65.08 or a stormwater management plan required by Section 65.09 of this Code.
  - (hh) **Post Development.** Refers to the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan. This term is used to match pre- and post-development stormwater peak flows as required by this chapter.
  - (ii) **Predevelopment.** Refers to the extent and distribution of land cover types present before 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 stormwater peak flows as required by this chapter. In a situation where cumulative impervious surface created after August 21, 2001 exceeds the twenty thousand (20,000) square foot threshold, the predevelopment conditions shall be those prior to the proposed land disturbances.
  - (jj) **Redevelopment.** Any construction, alteration or improvement exceeding 4,000 square feet of land disturbance performed on sites where the entire existing site is predominantly developed to 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 Section 65.09(a) of this Code.
  - (kk) **Runoff.** Rainfall, snow melt or irrigation water following over the ground surface.
  - (ll) **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 Practice.
  - (mm) **Sediment.** Solid earth material, both mineral and organic, this 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.
  - (nn) **Sedimentation.** The deposition of eroded soils at a site different from the one where the erosion occurred.

- (oo) **Sheet and Rill Erosion.** A loss of soil caused by sheet flow or shallow concentrated flow and characterized by an absence of channeling or a relatively uniform loss across the exposed upper layer of the soil or shallow irregular scouring of the soil surface.
- (pp) **Site.** The bounded area described in an erosion control plan or stormwater management plan.
- (qq) **Slope.** The net vertical rise over horizontal run, expressed as a percentage which represents a relatively homogeneous surface incline or decline over the area disturbed.
- (rr) **Soil Loss Rate.** 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.
- (ss) **Storm Events.** The precipitation amounts that occur over a twenty-four-hour period that have a specified recurrence interval for Dane County, Wisconsin. For example, one-, two-, ten- and one-hundred-year storm events have a recurrence interval of one, two, ten, and one-hundred years, respectively.
- (tt) **Stormwater.** The flow of water which results from, and which occurs during and immediately following, a rainfall or snow or ice melt event.
- (uu) **Stormwater Management.** Any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality after land development activities.
- (vv) **Stormwater Runoff.** The waters derived from rains falling or snow melt or ice melt occurring within a drainage area, flowing over the surface of the ground and collected in channels, watercourses, or conduits.
- (ww) **Street Reconstruction.** Removal and replacement of the road subgrade, where existing stormwater conveyance systems are modified.
- (xx) **Structure.** Any human-made object with form, shape and utility, either permanently or temporarily attached to, placed upon, or set into the ground, streambed or lake bed.
- (yy) **Subbasin.** A subdivision of a basin, all of which drains to a single identifiable location.
- (zz) **Unnecessary Hardship.** That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with regulations unnecessarily burdensome or unreasonable in light of the purposes of this chapter.
- (aaa) **Village.** The Village of Cross Plains.
- (bbb) **Village Enforcement Agent.** The person or representative hired, appointed or retained by the Village Board to routinely provide public works services, building inspection, or engineering services for the Village and shall include the Village Building Inspector, Village Engineer, Village Administrator, Director of Public Facilities, or any other person designated by the Village Board or these particular Village representatives.
- (ccc) **Village Engineer.** The person or a representative of the firm appointed or retained by the Village Board to routinely provide engineering services for the Village.

(ddd) **Working Day.** Monday, Tuesday, Wednesday, Thursday or Friday, excluding any such day officially observed by the Village as a legal holiday.

#### **SECTION 65.07 Special Ground Disturbing Time Limits for Plats.**

Unless specifically approved in writing by the Director of Public Facilities, any ground disturbance, including underground utility construction, associated with development of a plat or multi-lot certified survey map, shall be limited to the periods of time as identified in Section 83.104 of the Village Code, as amended from time to time. The provisions of this Sections do not apply to the development of a single lot regardless of its zoning classification.

#### **SECTION 65.08 Applicability of Erosion Control Requirements.**

Unless expressly exempted by Section 65.10, an erosion control and stormwater management permit containing an approved erosion control plan under Section 65.13 shall be required and all construction site erosion control provisions of this chapter shall apply to any of the following activities within the jurisdiction of the Village:

- (a) Land disturbing activity in excess of 4,000 square feet;
- (b) Land disturbing activity that involves excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material;
- (c) Land disturbing activity that disturbs more than 100 lineal feet of road ditch, grass waterway or other land area where 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;
- (d) Construction of any new public or private roads or access drives longer than 125 feet;
- (e) Development that requires a subdivision plat, as defined in the applicable local land division ordinance(s); or
- (f) Land disturbing activity that disturbs less than 4,000 square feet of land, including the installation of access drives, that the local approval authority determines to have a high risk of soil erosion or water pollution, or that may significantly impact a lake, stream, or wetland area. 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 or wetlands. All such determinations made by the local approval authority shall be in writing, unless waived by the applicant.

#### **SECTION 65.09 Applicability of Stormwater Control Requirements.**

Unless otherwise exempted by Section 65.10, an erosion control and stormwater management permit containing an approved stormwater control plan under Section 65.14 shall be required and all stormwater management provisions of this chapter shall apply to any of the following activities within the jurisdiction of the Village:

- (a) Any development, including agricultural development, after August 22, 2001 that results in the cumulative addition of 20,000 square feet of impervious surface to the site;
- (b) Any development that requires a subdivision plat, as defined in the applicable local land use ordinance(s);
- (c) Any development that requires a certified survey map, as defined in the applicable local land division or zoning ordinance(s), for property intended for commercial or industrial use;
- (d) Redevelopment, as defined in Section 65.06; or
- (e) Other land development activities, including but not limited to redevelopment or alteration of existing buildings or other structures, that the local approval authority determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or property damage or significantly impact a lake, stream, or wetland area. All such determinations shall be made in writing unless waived by the applicant.

**SECTION 65.10 Exemptions and Clarifications.**

- (a) Activities directly related to the planting, growing, and harvesting of agricultural crops, except as set forth in Section 65.09(a) are exempt from all requirements of this Chapter.
- (b) The following activities are exempt from the construction site erosion control provisions of Section 65.07:
  - (1) One- and two-family dwelling units regulated under the Wisconsin Uniform Dwelling Code. The Village shall regulate these sites during the period that residential building permits are in effect, consistent with then-existing Wisconsin Uniform Dwelling Code requirements. (Land disturbing activities in excess of one (1) acre, whether or not associated with the construction of a dwelling, are not exempt from this chapter.)
  - (2) Projects specifically exempted from local erosion control ordinances under state or federal statute. It is the responsibility of the landowner to demonstrate such exemption with documentation acceptable to the Village.
  - (3) Projects subject to an approved shoreland erosion control permit.
  - (4) Agricultural development not subject to Section 65.09(a).
  - (5) Village road or county highway projects not exempted under Section 65.10(b)(2) are exempt from Section 65.14(b)(3) where all of the following conditions are met:
    - a. The purpose of the project is only to meet current state or federal design or safety guidelines;
    - b. All activity takes place within existing public right-of-way.

- c. All other requirements of Section 65.14 are met; and
  - d. The project does not include the addition of new driving lanes.
- (c) The following activities are exempt from the infiltration standards described in Section 65.14(b)(6):
- (1) Redevelopment sites.
  - (2) New development sites with less than 10% connected imperviousness based on complete development of the post construction site, provided the cumulative area of all impervious surface is less than one acre.
  - (3) Agricultural facilities and practices.
  - (4) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the proposed infiltration system where the soil layer is not easily removed or manipulated.
  - (5) Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
  - (6) Roads in commercial, industrial and institutional land uses, and arterial roads.

**SECTION 65.11 Permit Procedure.**

- (a) **Control Permit Required.** No one shall commence any activity described in Sections 65.08 or 65.09, and no zoning permit may be issued, without receiving an erosion control and stormwater management permit from the Village.
- (b) **Application Requirements.** At least one landowner, occupant or user controlling, occupying or using the site and desiring to undertake a land disturbing or land developing activity subject to this chapter shall provide the following when requesting a permit:
  - (1) A completed erosion control and stormwater management permit application.
    - a. 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 bind the landowner to the terms of this chapter.
    - b. If a landowner appoints an agent to submit an application pursuant to Subsection (b)(1)(a), the landowner shall be bound by all of the requirements of this chapter and the terms of any permit issued to the agent.
  - (2) If required by Section 65.08, an erosion control plan containing all the information and meeting all the standards of Section 65.13, or a simplified checklist as described in Section 65.13.
  - (3) If required by Section 65.09, a stormwater management plan meeting all of the standards of Section 65.14 and covenants and restrictions as described in Section 65.15.
  - (4) Applicable fees as required by Section 65.19.

- (5) Copies of permits or permit applications or approvals required by any other governmental entity.
  - (6) A proposed timetable and schedule for completion and installation of all elements of approved erosion control and stormwater management plans and a detailed schedule for completion of construction.
  - (7) An estimate of the cost of completion and installation of all elements of the approved erosion control and stormwater management plans.
  - (8) Evidence of financial responsibility to complete the work proposed in the plan, as required by Section 65.22.
- (c) **Approval Process.**
- (1) The completed application shall be submitted to the Administrator, along with all appropriate fees. The Administrator shall verify that the permit application is complete or notify the applicant in writing of any deficiencies.
  - (2) After verifying completeness, the Administrator shall then forward the plan(s) to the Village Engineer for review and approval. The Village Engineer shall review the plan(s) for compliance with the standards identified in Sections 65.13 and 65.14. Some plans, such as a checklist erosion control plan, may not require Village Engineer review.
  - (3) Within 30 working days after receiving the plans from the Administrator, the Village Engineer shall either approve the submitted plan or notify the applicant, in writing, of any deficiencies.
  - (4) Upon approval of the Village Engineer, or, if Village Engineer review is not deemed necessary, within 15 working days after verification that the application is complete, the Village Enforcement Agent shall issue the applicant an erosion control and stormwater management permit after the applicant has met all requirements necessary for permit issuance. The Village Enforcement Agent shall issue all permit denials in writing.
  - (5) Where installed stormwater control measures will be privately owned, covenants and restrictions complying with the provisions of Section 65.15 shall be recorded with the Dane County Register of Deeds, prior to the issuance of an erosion control and stormwater management permit. The foregoing information shall also be noted on every plat and certified survey map.
- (d) **Permit Conditions.** All permits shall contain the following requirements:
- (1) The permittee shall notify the Village Building Inspector five working days prior to commencing any land developing or land disturbing activity.
  - (2) The erosion control plan shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Any stormwater control components of the plan shall be maintained in perpetuity.
  - (3) The permittee is responsible for successful completion of the erosion control plan and the stormwater management plan. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.

- (4) The permittee shall inspect the erosion control measures after each rain of 0.5 inch or more and at least once a week and make any needed repairs.
  - (5) Application for a permit shall constitute express permission by the permittee and landowner for the Village to enter the property for the purposes of inspection under Section 65.12 or curative action under Section 65.20. The application form shall contain a prominent provision advising the applicant and landowner of this requirement.
  - (6) The permittee shall pay the cost of off-site drainageway, stream channel or other improvements necessitated by the land developing or land disturbing activity.
  - (7) All erosion control and stormwater management permits shall be valid for a period to be determined by the Director of Public Facilities, but not to exceed three years. All work must be completed prior to expiration of the permit. If land disturbing activity is to continue beyond the expiration of the permit, then reapplication and review pursuant to this chapter is required.
  - (8) All incidental mud-tracking off site onto adjacent public thoroughfares shall be manually or mechanically (not hydraulically) cleaned up and removed by the end of each working day using proper disposal methods.
  - (9) A copy of the approved permit and erosion control plan shall be kept on the project site, in a place readily accessible to contractors, engineers, Village inspection staff and other authorized personnel.
- (e) **Permit Transfers.**
- (1) Erosion control and stormwater management permits issued under this chapter are not assignable without prior written approval by the Village.
  - (2) When a landowner acts to transfer an interest in property subject to an approved erosion control plan prior to completion of the proposed steps to attain soil stabilization, the permittee must secure approval from the Village.
  - (3) When a landowner transfers ownership, possession or control of real estate, subject to either or both an uncompleted erosion control or stormwater management plan, the landowner may transfer his or her obligations under the permit under the following arrangements:
    - a. The transferee shall complete an approved assignment form from the Village.
    - b. The financial security held by the Village may be released to the transferor if the transferee provides a financial security for the remaining obligations under the permit, following the procedures in Section 65.22.
    - c. If the assignment is approved, the transferee as subpermittee shall be responsible for the remaining unfulfilled obligations of the erosion control and stormwater management permit, including long-term maintenance.
- (f) **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 Village.

## **SECTION 65.12 Inspections.**

- (a) The Village Enforcement Agent may inspect all land disturbing activities and sites in order to ensure compliance with the erosion control plan, stormwater management plan, and permit. Application for a permit under this chapter shall constitute permission by the applicant and the landowner for the Village Enforcement Agent to enter upon the property, as necessary, to confirm compliance with requirements of the chapter and the approved control plans.
- (b) The permittee shall inspect the erosion control measures prior to every forecasted rainfall of 0.5 inches or more, and after each rain of 0.5 inch or more and at least once a week and make any needed repairs.
- (c) The Village Enforcement Agent shall inspect the site at least once every 30 days, or more frequently if necessary to ensure plan compliance.
- (d) Within 10 days after installation of all practices in an approved erosion control plan and achievement of soil stabilization, the permittee shall notify the Village enforcement agent.
- (e) The Village Enforcement Agent shall inspect the property to verify compliance with the erosion control plan within 10 days of notification of soil stabilization.
- (f) Within 10 days after installation of all practices in an approved stormwater management plan, the permittee shall notify the Village Enforcement Agent. The person who designed the stormwater management plan or the permittee shall submit as-built drawings and within 90 days after final site stabilization, certification to ensure that constructed stormwater management practices and conveyance systems comply with the specifications included in the approved plans. At minimum, as-built certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. Other information shall be submitted as required by the Village Enforcement Agent. Within 10 days following the submittal of as-built drawings documenting construction, the Village Enforcement Agent shall inspect the control measures to ensure compliance with the approved stormwater management plan.
- (g) Maintenance of stormwater control structures is the responsibility of the owner, and facilities are subject to inspection and orders for repairs.
- (h) If land disturbing or land development activities are being carried out without a valid permit, the Village Enforcement Agent may enter the land pursuant to the special inspection warrant provisions of § 66.0119, Wis. Stats.

## **SECTION 65.13 Erosion Control Plan.**

- (a) **Plan Materials.** Erosion control plans required under Section 65.08 may include consideration of adjoining landowners' cooperative efforts to control transport of sediment. All maps submitted under this section shall be on a scale of at least one-

inch equals 100 feet. Except as specifically exempted by the Village, all erosion control plans shall include at a minimum the following information:

- (1) Property lines, lot dimensions and limits of disturbed area;
- (2) Location and dimensions of impervious area, including utilities, structures, roads, highways and paving, with the type of paving and surfacing material being indicated;
- (3) All natural and artificial water features, including, but not limited to lakes, ponds, streams (including intermittent streams), wetlands, channels, ditches, areas of natural woodland or prairie, and other watercourses on or immediately adjacent to the site;
- (4) The ordinary high water marks of all navigable waters, 100 year flood elevations and delineated wetland boundaries;
- (5) Location of the predominant soil types;
- (6) Limits and extent of vegetative cover existing before and after commencement of land disturbing activities;
- (7) Cross sections of and profiles within road ditches;
- (8) Culvert sizes;
- (9) Direction of flow of runoff continuing at least to the nearest perennial stream (small-scale map may be used if necessary);
- (10) Watershed size for each drainage area, including ordinary high water marks for all navigable waters, one-hundred-year floodplains, flood fringes and floodways, and delineated wetland boundaries;
- (11) Design discharge for ditches and structural measures;
- (12) Runoff velocities;
- (13) Fertilizer and seeding rates and recommendations;
- (14) Time schedules for stabilization of ditches and slopes;
- (15) Description of methods by which sites are to be developed, including schedule of anticipated starting and completion dates of land disturbing and land developing activity, and time schedules for stabilization of ditches and slopes;
- (16) 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 revegetation, including runoff calculations as appropriate;
- (17) Provisions for maintenance of the control measures during land disturbing activities and a narrative describing the long-term maintenance required to ensure that control measures continue to perform the functions intended by the plan;
- (18) Provisions to prevent mud-tracking off site onto public thoroughfares during the construction period; and
- (19) Provisions to disconnect impervious surfaces, where feasible;
- (20) Provisions to prevent sediment delivery to and accumulation in any proposed or existing stormwater conveyance systems;

- (21) Copies of permits or permit applications required by any other unit of government or agency;
  - (22) Existing or proposed elevations referenced to the North American Vertical Datum (NAVD) of 1988 and existing and proposed contours in the area, where deemed necessary.
  - (23) Such other information as the Village Engineer deems necessary, including information necessary to reasonably determine the location, nature and condition of any physical or environmental features of the site.
- (b) **Specific Plan Requirements.** At a minimum, the control plan for all sites not subject to the checklist plan must include the following requirements;
- (1) **Drain Inlet Protection.** Affected storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting all accepted design criteria, standards and specifications, as determined by the Village Engineer.
  - (2) **Waste and Material Disposal.** All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.
  - (3) **Tracking.** Access driveways and parking area shall be of sufficient length, width, and wearing surface (such as stone) to accommodate any vehicular traffic using site access drives and site parking. Sediment reaching a public or private road or thoroughfare shall be removed by sweeping (not hydraulic flushing) before the end of each workday.
  - (4) **Channelized Runoff.** Channelized runoff from adjacent areas through the site shall be diverted around disturbed areas, where practical, as determined by the Village Engineer. Diverted runoff shall be conveyed in a manner that will not erode the receiving channels.
  - (5) **Sequenced Activities.** All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time and the amount of soil leaving the site.
  - (6) **Disturbed Ground Stabilization.** All disturbed ground and soil or dirt storage piles shall be contained on the site by filter barriers and other suitable means. The containment measures shall be installed at a time established by the Village Engineer. The containment measures shall remain in place until the site is adequately stabilized, as determined by the Village Engineer.
  - (7) **Filter Fences or Straw Bales on Slopes.** Filter fences, straw bales, or equivalent control measures shall be placed continuously along all side slope and downside slope sides of the site where deemed appropriate by the Village Engineer. If a channel or area of concentrated runoff passes through the site, filter barriers shall be placed continuously along the channel edges to reduce sediment reaching the channel.
- (c) **Checklist Control Plan.**
- (1) When allowed, Applicants may submit erosion control permit applications using a simplified checklist of standard erosion control measures provided by the Village, if all of the following conditions exist:
    - a. The site does not exceed 20,000 square feet in area;

- b. The slope of the land does not exceed 6% throughout the site;
  - c. The Village Engineer determines that no special circumstances exist due to topography, proximity to watercourses or relation to environmentally-sensitive lands; and
  - d. There has been no subdivision of land (as defined in Ch. 236, Wis. Stats.).
- (2) **Checklist Control Plan Approval.** Simplified plan checklists shall be reviewed by the Village Building Inspector, in consultation with the Village Engineer if necessary, for completeness and compliance with the intent of this chapter.
- (d) **Erosion Control Performance Standards.**
- (1) Proposed design, suggested location and phased implementation of effective practicable erosion control measures For all erosion control plans shall be designed, engineered, and implemented to achieve the following results:
    - a. Prevent gully and bank erosion; and
    - b. Limit total off-site permissible annual aggregate soil loss for exposed areas resulting from sheet and rill erosion to an annual cumulative soil loss rate not to exceed 7.5 tons per acre annually.
    - c. Discharges from new construction sites must have a stable outlet capable of carrying designed flow 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 water body.
  - (2) Plan compliance under Subsection (d)(1) shall be determined using the United States 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.
  - (3) Erosion control measures for plan approval need not attempt to regulate soil transportation within the boundaries of the applicant's site.
  - (4) Except as authorized in this section, the topography within five feet of any property line at the commencement of any development shall remain unchanged.
    - a. When land disturbing activities associated with development occur within five feet of any property line, finished grades in that area shall be restored to the topography in existence before the land disturbing activity began. A positive slope of one half inch per one foot horizontal within five feet of the property line is allowed to provide proper drainage away from a one or two family residence.
    - b. 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 bears the burden of proof as to the established grade at the property line and the topography within five feet of the property line.

- c. The Village Enforcement Agent is authorized to approve plans that result in changes to the existing topography at and within five feet of any property line if that plan would promote the purposes of this Chapter.
- (e) **Other Construction Site Control Measures.** The control standards set forth above are intended to apply on a typical development site in the Cross Plains area. When land disturbing or land development activity is proposed for a site with extraordinary features, then the Village Board may, at its discretion, require additional and/or more restrictive control standards and measures before any control plan is approved or permit is issued. Extraordinary sites include, but are not limited to, sites where land disturbing or development activities are proposed to occur on slopes of more than 20% in designated floodplain, wetland, or conservancy areas or in environmental corridor areas identified in the Village Comprehensive Plan.

#### **SECTION 65.14 Stormwater Management Plan.**

- (a) **Plan Materials.** Stormwater management plans shall satisfy all of the requirements in Subsection (b) and shall address at a minimum the following information:
  - (1) A narrative describing the proposed project, including implementation schedule for planned practices.
  - (2) Identification of the entity responsible for long-term maintenance of the project.
  - (3) A map showing drainage areas for each watershed area.
  - (4) A summary of runoff peak flow rate calculations, by watershed area, including:
    - a. Preexisting flow rates;
    - b. Post-construction peak flow rates with no detention;
    - c. Post-construction peak flow rates with detention;
    - d. Assumed runoff curve numbers (RCNs); and
    - e. Time of concentration ( $T_c$ ) used in calculations
  - (5) A complete site plan and specifications, signed by the person who designed the plan. All plans shall be drawn on a scale of at least one inch equaling 100 feet, but no larger than one inch equaling 20 feet, shall be clearly labeled, and shall include, at a minimum, all of the following information:
    - a. Property lines and lot dimensions;
    - b. All buildings and outdoor uses, existing and proposed, including all dimensions and setbacks;
    - c. All public and private roads, interior roads, driveways and parking lots; show traffic patterns and type of paving and surfacing material;
    - d. All natural and artificial water features, including but not limited to lakes, ponds, streams (including intermittent streams), and ditches; show ordinary high-water marks of all navigable waters, one-hundred-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense;
    - e. Depth to bedrock;

- f. Depth to seasonal high-water table;
  - g. The extent and location of all soil types as described by the Dane County Soil Survey, slopes exceeding 12%, and areas of natural woodland or prairie;
  - h. Existing and proposed elevations (referenced to the North American Vertical Datum of 1988) and existing and proposed contours at four-foot or lesser intervals;
  - i. Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project;
  - j. Soil erosion control and overland runoff control measures, including runoff calculations as appropriate;
  - k. Detailed construction schedule;
  - l. Copies of permits or permit applications required by any other governmental entities or agencies;
  - m. Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features;
  - n. Location of all stormwater management practices;
  - o. All existing and proposed drainage features;
  - p. The location and area of all existing and proposed impervious surfaces; and
  - o. The limits and area of the disturbed area.
- (6) Engineered designs for all structural management practices.
  - (7) A description of methods to control oil and grease or written justification for not providing such control.
  - (8) A description and plans to control temperature of runoff.
  - (9) A maintenance plan and schedule for all permanent stormwater management practices as recorded on the affidavit required in Section 65.11(c)(5).
- (b) **Stormwater Management Performance Standards.** Proposed design, suggested location and phased implementation of effective, practicable, stormwater management measures for plans shall be designed, engineered and implemented to achieve the following results:
- (1) **Sediment Control.**
    - a. For new construction, design practices to retain soil particles greater than five microns on the site (eighty-percent reduction) resulting from a one-year, twenty-four-hour storm event (2.5 inches over 24-hour duration), according to approved procedures, and assuming no sediment resuspension.
    - b. For redevelopment resulting in exposed surface parking lots and associated traffic areas, design practice to retain soil particles greater than 20 microns on the entire site (forty-percent reduction) resulting from a one-year, twenty-four-hour storm event, according to approved procedures, and assuming no sediment resuspension. Under no circumstances shall the site's existing sediment control level or trapping efficiency be reduced as a result of the redevelopment.

- (2) **Oil and Grease Control.** For all stormwater plans for commercial or industrial developments and all other uses where the potential for pollution by oil or grease, or both, exists, the first 0.5 inch of runoff will be treated using the best oil and grease removal technology available. This requirement may be waived by the Village Engineer only when the applicant can demonstrate that installation of such practices is not necessary.
- (3) **Runoff Rate Control, Hydrologic Calculations.** All runoff calculations shall be according to the methodology described in the Natural Resources Conservation Service's Technical Release 55, Urban Hydrology For Small Watersheds (commonly known as "TR-55"), or other methodology approved by the Dane County Conservationist. The maximum runoff curve number (RCN) used in such calculations shall be those shown in Table 1 as set forth in Appendix A. Heavily disturbed sites shall be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no modification. Where practices have been implemented to restore soil structure to predeveloped conditions, no permeability class modification is required.
- (4) **Runoff Rate Control Design Standards.** 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 new construction sites must have a stable outlet capable of carrying the designed flow as required in Subsection (b)(4) at a nonerosive 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 water body.
- (6) **Infiltration.**

Design practices to infiltrate sufficient runoff volume so that post-development infiltration volume shall be at least 100% of the pre-development infiltration volume, based upon average annual rainfall. Notwithstanding the foregoing, if State Statutes or administrative regulations created by the Wisconsin Department of Natural Resources establish a pre-development infiltration rate at less than

100%, then the pre-development infiltration volume requirements of the statute or administrative regulation shall control and shall be adopted as the requirements of the Village. The runoff curve numbers used in calculating pre-development conditions shall be based on the pre-development land uses. The maximum runoff curve number (RCN) used in calculating pre-development conditions shall be those as specified in Table 1 located in section (3) above. If, when designing appropriate infiltration systems, more than two percent (2%) of the site is required to be used as effective infiltration area, the applicant may alternatively design infiltration systems and pervious surfaces to meet or exceed the annual pre-development recharge rate. The annual pre-development recharge rate shall be determined from the Wisconsin Geological and natural History Survey's 2009 report, *Groundwater Recharge in Dane County, Estimated by a GIS-Based Water Balanced Model*, or subsequent updates to the report. If this alternative design approach is taken, at least two percent (2%) of the site must be used for infiltration. For re-development projects the infiltration requirements shall be applied only to the area that was not impervious when the project began.

- b. **Pre-treatment.** Before infiltrating runoff, pre-treatment shall be required. For parking lot run-off, and for run-off from new road construction in commercial, industrial and institutional areas that will enter an infiltration system, the pre-treatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality, and shall be designed to Wisconsin Department of Natural Resources standards. Where appropriate, pretreatment for other runoff constituents that represent a threat of groundwater contamination may be required.
- c. **Prohibitions.** Notwithstanding subparagraphs (a) and (b), infiltration systems may not be installed in any of the following areas:
  - 1. Areas associated with tier 1 industrial facilities identified in § NR 216.21 (2)(a), Wis. Admin Code, including storage, loading, rooftop and parking.
  - 2. Storage and loading areas of tier 2 industrial facilities identified in § NR 216.21(2)(b), Wis. Admin Code.
  - 3. Fueling and vehicle maintenance areas.
  - 4. Areas within 1,000 feet up gradient or within 100 feet down gradient of Karst Features.
  - 5. 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 the top of bedrock are in accordance with Table 2, as set forth in Appendix A.

6. 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.
  7. Areas within 400 feet of a community water system well as specified in § NR 811.16(4), Wis. Admin Code for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
  8. Areas where contaminants of concern, as defined in § NR 720.03(2), Wis. Admin Code are present in the soil through which infiltration will occur.
  9. Any area where the soil does not exhibit one of the following characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least 5-foot soil layer with 10% fines or greater. This provision does not apply where the soil medium within the infiltration system provides an equivalent level of protection and does not prohibit infiltration of roof runoff.
- d. **Alternate Use for Runoff.** Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this section.
  - e. **Minimizing Groundwater Pollution.** According to ch. NR 151, Wis. Admin Code, infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventative 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 prevention action limit is not achievable, the infiltration system may not be installed or shall be modified to prevent infiltration to the maximum extent practicable in the absolute discretion of the Village.
  - f. A Village-paid resident inspector who has an engineering or soils science background shall be present for construction of all engineered infiltration facilities to be operated and maintained by the Village, and such facilities shall not be accepted by the Village unless the inspector so recommends.
  - g. Tests verifying compliance with design specifications shall be conducted by an independent laboratory on the materials used to construct infiltration facilities prior to the use of those materials in the

construction of those facilities. For infiltration facilities constructed by private parties those parties shall pay the cost of the tests.

- h. For new developments the construction of infiltration facilities shall be delayed until approximately 75% build-out of homes or structures, or until four years after issuance of the first building permit, whichever occurs first, and measures to bypass the infiltration facilities until that level of build-out occurs, shall be included in the design, in order to avoid premature plugging of the facilities. A separate infiltration letter of credit in the Village's name extending for a time period of five years from the time the first building permit is issued covering the cost of the construction of the infiltration facilities shall be maintained to assure the facilities are placed into service and facility effectiveness continues throughout the five year period. Small infiltration devices (serving up to two acre developments) shall not be constructed until after site is totally developed or until four years after issuance of the first building permit, whichever occurs first, and the same five year letter of credit shall be provided.
- i. All engineered infiltration facilities shall include suitable monitoring provisions to allow regular inspections to gauge the continuing effectiveness of the infiltration process. A long term inspection schedule to be followed by the Village shall be submitted with the design.

(7) **Thermal Control.**

- a. The stormwater management plan shall include provisions and practices to reduce the temperature of runoff for sites located within the watershed of a river or stream identified by the Wisconsin Department of Natural Resources as:
  - 1. A cold water community as identified through Section NR 102.04(3)(a) and Chapter NR 104, Wis. Adm. Code, and Class I, Class II, and Class III trout streams identified in Wisconsin Trout Streams, Department of Natural Resources Publication 6-3600(80) or its successor.
  - 2. Rivers or streams proposed by the Wisconsin Department of Natural Resources as cold water communities and Class I, Class II, and Class III trout streams.
- b. The stormwater management plan does not have to meet the requirement in Subsection (b)(7)a if the applicant can justify by use of a model approved by the Dane County Conservationist that practices are not necessary because the temperature increase of runoff from the site post development will be zero.

- (c) **Impact of Basin (or Subbasin) Studies.** The control standards set forth in Subsection B above are intended to apply in typical situations and in those areas

where no detailed basin (or subbasin) drainage study, erosion control and runoff plan, or stormwater management plan has been approved by the Village Plan Commission and Board. When a site is included within an area for which a Village-approved study or plan exists, then the Village Board, at its discretion, may require that the applicant utilize and pay for the practices and measures set forth in the approved study or plan.

- (d) **Stormwater Management Goals.** The following standards shall be met whenever possible, and proposed design, suggested location and implementation of practice to meet these goals shall be included in plans:
  - (1) For existing development, design practices to retain soil parcels greater than 40 microns on the site (twenty-percent reduction) resulting from a one-year, twenty-four-hour storm event, according to approved procedures, and assuming no sediment resuspension.
  - (2) For street reconstruction, design practices to retain soil particles greater than 20 microns on the site (forty-percent reduction) resulting from a one-year, twenty-four-hour storm event, according to approved procedures and assuming no sediment resuspension.

**SECTION 65.15 Maintenance of Control Measures.**

- (a) **Covenant and Restrictions Required.** Following the final inspection and submission of as-built plans for all stormwater and erosion control measures specified in a plan, the owner shall record encumbrances upon the entire site covered by the plan which shall be binding on the owner and the owner's successors and assigns. The following documents shall be filed with the Dane County Register of Deeds:
  - (1) Covenants and restrictions, in a form provided by the Village providing for the perpetual maintenance of all stormwater measures; and
  - (2) As-built plans and specifications showing the performance and design contemplated for each measure.
  
- (b) **Covenant and Restrictions Provisions.** The covenants and restrictions shall contain the following:
  - (1) The landowner shall maintain stormwater management measures in accordance with the stormwater maintenance provisions contained in the approved stormwater management plan.
  - (2) The Village is authorized to access the property to conduct inspections of stormwater measures as necessary to ascertain whether the measures are being maintained and operating in accordance with the approved stormwater management plan.
  - (3) The Village may specifically indicate any corrective actions required to bring the stormwater control measures into proper working condition and a reasonable time frame during which the corrective action must be taken.

- (4) The Village shall be authorized to perform the corrective actions identified in the inspection report if the landowner does not make the required corrections in the specified time period and shall authorize the collection of the costs as a special charge against the property pursuant to § 66.0627, Wis. Stats.
- (c) **Modification or Termination.** The covenants and restrictions may be modified only with the Village's written consent. The covenants and restrictions shall be terminated when responsibility for maintenance of the stormwater management practice is legally transferred to the Village or agency acceptable to the Village through a written. Binding agreement. The termination date of the covenants and restrictions required under Subsection (a) of this section shall be the date upon which the legal transfer of maintenance to the Village or other Village-approved agency is made effective.

#### **SECTION 65.16 Off-site Stormwater Management.**

- (a) Off-site stormwater management is allowed, provided that all of the following conditions for the off-site facility are met:
  - (1) The facility is in place;
  - (2) The facility is designed and adequately sized to provide a level of stormwater control that at least meets the standards of this chapter; and
  - (3) The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- (b) All applicants are responsible to pay the cost to build off-site stormwater control measures which is proportionate to the contribution of stormwater runoff draining from the site to the off-site control measures.

#### **SECTION 65.17 Technical Standards and Specifications.**

All best management practices designed to meet the requirements of this chapter shall comply with the technical standards set forth in the following manuals and publications:

- (a) Natural Resource Conservation Service's Field Office Technical Guide Chapter 4 or its successor;
- (b) Applicable construction, erosion control and stormwater management standards by the Wisconsin Department of Natural Resources; and
- (c) Any other technical methodology approved by both the Village and the Dane County Conservationist, including the Dane County Erosion Control and Stormwater Manual.

#### **SECTION 65.18 Disposal of Leaves in Proximity to Watercourses.**

No person shall deposit unbagged piles of leaves within eight feet of a street, gutter or other conveyance of water to a storm sewer. No person shall deposit or dump leaves in any area where leaching of decaying leaves will enter any storm sewer, wetland or navigable waters

of Dane County. For purposes of this section, “wetland” shall be defined as provided in § 23.32(1), Wis. Stats., and “navigable waters” shall be defined as provided in § 30.10, Wis. Stats.

#### **SECTION 65.19 Fees.**

(a) **Application fee.**

(1) **General.** The application fee for an erosion control and stormwater management permit shall be as set by the Village Board. Where plat or certified survey map review fees are paid pursuant to Chapter 83 of this Code for the same project covered by the proposed erosion control and stormwater management permit, then the application fee will be waived.

(2) **Checklist Control Plan.** The application fee for an erosion control and stormwater management permit requiring submission of a checklist control plan shall be as set by the Village Board. Where a building permit fee is paid in connection with the same activity, then no additional fee need be paid in order to obtain the necessary erosion control and stormwater management permit.

(b) **Engineering and Inspection Fees.** In addition to the application fee, before any permit will be issued the applicant must pay the actual engineering fees or expenses incurred by the Village in connection with review of the control plan(s) and the engineering fees or expenses estimated to be incurred for on-site inspection during the project. Where the application fee is waived, the applicant must still pay the engineering and inspection fees and expenses; however, such fees and expenses may not duplicate any engineering or inspection fees paid in connection with plat or certified survey map approval.

#### **SECTION 65.20 Enforcement; Violations and Penalties.**

(a) **Violations.** No land development of land disturbing activities within the scope of this chapter may occur without full compliance with the provisions of this chapter. Any person who violates or fails to comply with any provision of this chapter is subject to the enforcement and penalty provisions of this section.

(b) **Enforcement.** This chapter shall be enforced consistent with the policies and purposes underlying its adoption. The following enforcement actions, or any combination thereof, may be taken in case of a violation of this chapter:

(1) **Voluntary Compliance.**

(2) **Stop-work Order.** A stop-work order may be issued by the Village Enforcement Agent if any land disturbing or land developing activity regulated under this chapter is being undertaken without a permit, the control plan is not being implemented in a good faith manner, or the conditions of the permit are not being met. Stop-work orders may be retracted when compliance with the chapter is obtained. The Village Enforcement Agent has the authority to retract a stop-work upon satisfactory compliance.

- (3) **Revocation of Permit.** Where a stop-work order has been issued in order to obtain compliance with a control plan, the Village Enforcement Agent may revoke the permit if the permittee does not cease the illegal activity or obtain compliance with the control plan or permit conditions within 24 hours from issuance of the stop-work order.
- (4) **Village to Perform Work.**
- a. Twenty-four hours after posting a stop-work order, the Village may issue a notice of intent to the permittee or landowner or land user of the Village's intent to perform work necessary to comply with this chapter.
  - b. When a violation of this chapter or of the conditions of a permit causes sediment to deposit on any Village street or public property, the Village Enforcement Agent and/or other designated Village officials or agents may proceed to remove and/or clean such sediment.
  - c. The costs of the work performed by the Village pursuant to Subsection (b)(4)a or b above, plus interest, shall be billed to the permittee or the landowner on whose property the work under Subsection (b)(4)a was performed, or from whose activity or property the sediment originated for work under Subsection (b)(4)b, or may be recovered out of any security posted for such purpose. In the event that a permittee or landowner otherwise fails to pay the amount due, the Administrator shall enter the amount due on the tax rolls and collect it as a special assessment against the property pursuant to § 66.0703, Wis. Stats.
- (5) **Injunction and Other Judicial Remedies.** Compliance with the provisions of this chapter may also be obtained by the Village Board authorizing the Village Attorney to commence appropriate action to enjoin violations, compel compliance, or pursue other appropriate judicial relief.
- (6) **Private Remedies Preserved.** These enforcement provisions are not intended in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have available as a result of any erosion, sediment or water runoff.
- (7) **Penalties.** Any person violating any provision of this chapter shall be subject to a forfeiture of not less than \$100 nor more than \$2,000 plus the actual cost of prosecution for each offense. Each day a violation exists shall constitute a separate offense. Citations for any violation of any provision of this chapter may additionally be issued by the Village Enforcement Agent, and such citations shall be in conformance with the provisions of Chapter 1, Article II of this Code. Without limitation by enumeration, a violation of this chapter is occurring if any of the following conditions exist:
- a. Any land disturbing or land developing activity regulated under this chapter is being undertaken without a permit;
  - b. The erosion control plan and/or stormwater management plan is not being implemented in a good faith manner;
  - c. The conditions of the permit are not being met; or

- d. Any condition or activity that causes excessive runoff or erosion to adjacent land, public streets, or water bodies is occurring or being allowed to occur, in violation of Section 65.11 of this chapter.
- (c) If the permittee has filed an appeal under Section 65.20 prior to the expiration of the time for compliance under this section, the Village may take action, perform work, or correct conditions only to the extent necessary to protect against or correct an imminent hazard or a condition that will cause or threatens to cause personal injury or damage to off-site property.

## **SECTION 65.21 Appeals and Variances.**

### **(a) Appeal or Variance Requests.**

- (1) **By Applicant or Permittee.** Any aggrieved applicant, permittee or land user may appeal any order, decision, determination or inaction of the Village in administering or enforcing this chapter or may apply for a variance from the requirements of this chapter. A fee as set by the Village Board must accompany any appeal or variance request involving a land disturbing activity subject only to an erosion control checklist plan. A fee as set by the Village Board must accompany any appeal or variance request involving any other erosion control and stormwater management permit. Appeal or variance requests must be submitted in writing, state the grounds for the appeal or variance request, and be filed with the Village Administrator.
- (2) **By Citizens.** An appeal of any order, decision, determination or inaction of the Village in administering or enforcing this chapter may be commenced upon the filing of a petition signed by 12 adult residents of the Village and payment of a fee as set by the Village Board. The appeal must be filed with the Village Administrator and must state written grounds for the appeal. A copy of any citizen appeal shall be delivered or mailed to the applicant or permittee by the Village Administrator within five working days of its filing, if any, with the Village. The filing of a citizen appeal, by itself, does not prohibit the commencement or continuation of any work or activity.
- (3) **Appeal Deadline.** Appeals by applicants, permittees or citizens must be filed within 45 days of the order, decision, determination or inaction being appealed.
- (4) **Multiple Appeals Prohibited.** Once an appeal has been filed on a matter, no other appeal on the same order, decision, determination or inaction will be allowed. The Zoning Board shall consolidate appeals wherever possible to avoid a multiplicity of appeal proceedings and to hasten the final resolution of a matter. The Zoning Board may allow additional parties to join a pending appeal where appropriate and where such addition will not delay the proceedings.

### **(b) Authority of Zoning Board of Appeals.**

- (1) The Village Zoning Board of Appeals shall hear and decide all variance requests and appeals in accordance with the provisions of § 62.23(7)(e), Wis.

Stats., and this Code. Where provisions may conflict, the more stringent shall apply.

- (2) The Zoning Board of Appeals shall only grant such variances from the terms of this chapter as will not be contrary to the public health, safety or welfare where, owing to special conditions, a literal enforcement of the provisions of this chapter will impose an unnecessary hardship. Such variances may be granted only to the minimum extent necessary to afford relief from the unnecessary hardship. Before a variance may be granted, the Village Engineer must find that the erosion control and/or stormwater management plan(s), to the extent possible and consistent with the need for a variance, will achieve compliance results comparable to those set forth in this chapter. In making such a finding, the Village Engineer shall consider water quality and impacts to downstream conditions.
- (3) Appeals or variance requests shall be heard and decided within 30 days of receipt of the written request and payment of the appeal fee, unless an extension is agreed upon by the appellant and Zoning Board.
- (c) **Chapter Procedures Prevail.** Pursuant to § 68.16, Wis. Stats., the Village Board elects that the procedures for administrative review of decisions set forth in this chapter shall apply in lieu of the procedures of the Wisconsin Municipal Administrative Procedure Act.
- (d) **Enforcement Not Stayed.** The filing of an appeal or variance request does not preclude the Village from commencing or continuing any of the enforcement actions set forth in Section 65.19 or a forfeiture proceeding under this chapter unless the Village Board specifically agrees to stay such enforcement.

## **SECTION 65.22 Financial Responsibility.**

The applicant shall provide, prior to issuance of the permit, an irrevocable letter of credit, certificate of deposit or certified check to the Village in an amount equal to 125% of the estimated cost of all required control measures as determined by the Village Engineer to guarantee that all required control measures will be taken or installed according to the approved plan(s).

- (a) **Right to Draw Upon.** The Village shall have the right to draw upon the security for purposes of completing construction of the improvements or payment of its costs.
- (b) **Security for Other Purposes.** If the construction of erosion control and stormwater management measures required by this chapter is required by a development agreement in connection with a plat or certified survey map, then security for performance of the control requirements may be included as part of the overall security required for installation of improvements under Chapter 83, of this Code.
- (c) **Full Release.** The security shall remain in full force until released. The financial security shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer in the state that the stormwater practice has been installed in accordance with the approved plan.

- (d) **Pro Rata Release.** The Village may make provisions for a partial pro rata release of the financial security based on the completion of various development stages. Any reduced amount shall be adequate to cover all remaining costs plus twenty-five percent (25%).

### **SECTION 65.23 Storm Sewers; Illicit Discharges.**

- (a) **Purpose.** The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the Village and protect the waters of the state through the regulation of illicit discharges to the municipal separate storm sewer system as required by federal and state law. This Section establishes methods for controlling the discharge of pollutants into the municipal separate storm sewer system owned or operated by the Village in order to comply with the requirements of the Clean Water Act, Wis. Stats. § 283.33 and the Wisconsin Pollutant Discharge Elimination System (WPDES) municipal storm waste discharge permit program under Wis. Admin. Code Ch. NR 216. The objectives of this Section are:
- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system associated with discharges from any user of the municipal separate storm sewer system.
  - (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
  - (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Section.
- (b) **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this paragraph (b), except where the terms set forth in this paragraph (b) are defined otherwise in this Chapter 65, the definitions set forth in this paragraph shall control in interpreting Section 65.23.
- (1) **Illicit Connection.** Any drain or conveyance, whether on the surface or subsurface, which allows the discharge of sanitary waste to the municipal storm sewer system and any connections to the municipal separate storm sewer system from indoor drains and sinks.
  - (2) **Illicit Discharge.** Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater except discharges with a Wisconsin Pollutant Discharge Elimination System permit or discharges otherwise permitted by law.
  - (3) **Municipal Separate Storm Sewer System.** A conveyance or system of conveyances including roads with drainage systems, public streets, catchbasins, curbs, gutters, ditches, constructed channels or storm drains, which meets the following criteria:
    - a. Owned or operated by the Village.
    - b. Designed or used for collecting or conveying stormwater.
    - c. That is not a combined sewer conveying both sanitary wastewater and stormwater.

- d. That is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- (4) **Nonstormwater Discharge.** Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater.
  - (5) **Person.** An individual, owner, operator, corporation, limited liability company, partnership or association.
  - (6) **Stormwater.** Surface runoff and drainage of rainfall and snow or ice melt.
  - (7) **Waters of the State.** Those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters that are entirely confined and retained completely upon the property of a person.
- (c) **Applicability.** This Section shall apply to all discharges to the municipal separate storm sewer system and to all activities that can reasonably be expected to result in a discharge to the municipal separate storm sewer system.
- (d) **Responsibility for Administration.** The Director of Public Facilities shall administer, implement, and enforce the provisions of this Section.
- (e) **Ultimate Responsibility.** The standards set forth herein and promulgated pursuant to this Section are minimum standards. Therefore, this Section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharges.
- (f) **Discharge Prohibitions.**
- (1) **Prohibition of Illicit Discharges.** No person shall discharge or cause to be discharged into the municipal separate storm sewer system or waters of the state of any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illicit discharge to the municipal separate storm sewer system is prohibited. The following non-stormwater discharges or flows are generally not considered illicit discharges if done so in a nonpolluting manner: water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and

wetlands, dechlorinated swimming pool water, street wash water and firefighting.

(2) **Prohibition of Illicit Connections.**

- a. The construction, use, maintenance, or continued existence of illicit connections to the municipal separate storm sewer is prohibited.
- b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- c. A person is considered to be in violation of this Section if the person connects a line conveying sanitary waste to the municipal separate storm sewer, or allows such a connection to continue.

(g) **Monitoring of Discharges.** The Director of Public Facilities shall be permitted to enter and inspect facilities subject to regulation under this Section as often as may be necessary to determine compliance with this Section. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access.

(h) **Notification of Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer, or water of the state, said person shall take all necessary steps to ensure the discovery, containment, and clean-up of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the Director of Public Facilities in person, by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized agency within three business days of the phone notice.

(i) **Enforcement.**

- (1) This Section may be enforced by citation, or the Village may pursue any other remedy available to it as allowed by law.
- (2) Any person found to have violated any provision of this Section may be required to forfeit not less than \$10.00 nor more than \$500.00. Each day a violation occurs shall be considered a separate offense.
- (3) Every violation of this Section is a public nuisance. Compliance with this Section may be enforced by injunctive order at the suit of the

Village. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

- (4) The Director of Public Facilities or designee may upon discovery of any violation of this Section take any abatement actions reasonably necessary to prevent damage to the waters of the state. The costs incurred by the Village, plus interest and legal costs, shall be billed to the record owner 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 Director of Public Facilities is authorized to refer any violation of this Section to the Village Attorney for the commencement of legal proceedings.

### APPENDIX A

<b>Table 1. Maximum Predevelopment Runoff Curve Numbers</b>				
<b>Runoff Curve Number</b>	<b>Hydrologic Soil Group*</b>			
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
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

<b>Table 2. Separation Distances and Soil Characteristics</b>		
<b>Source Area</b>	<b>Separation Distance</b>	<b>Soil Characteristics</b>
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 Surface Infiltration Practices	1 Foot or More	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	

All Other Impervious Source Areas	3 Feet or More	Filtering Layer
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