ARTICLE IV. - EROSION CONTROL AND STORMWATER MANAGEMENT

Sec. 10-121. - Authority.

This article is adopted under the authority of Wis. Stats. § 62.234.

(Code 1986, § 20.00; Ord. No. 0-21-06, § 1, 5-9-2006)

Sec. 10-122. - Definitions.

As used in this article:

Affected means that a regulated activity has significantly:

(1) Caused negative impacts on water quality or the use or maintenance of land or business; or

(2) Endangered health, safety or general welfare.

Agricultural facilities and practices has the meaning in Wis. Stats. § 281.16(1).

Average annual rainfall means a typical calendar year of precipitation as determined by the department for users of models such as SLAMM, P8, or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.

Bank erosion means the removal of soil or rock fragments along the banks or bed of a stream channel resulting from high flow after rain events.

Best management practice (BMP) means 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.

City means the City of Stoughton, Wisconsin.

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 (section NR 102.04(3)(a), Wis. Admin. Code).

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.

Construction site erosion control means preventing or reducing soil erosion and sedimentation from land disturbing activity.

Department means the Department of Natural Resources.

Development means residential, commercial, industrial or institutional land uses and associated roads.

Direct conduits to groundwater means 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.

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 pre-treatment.

Erosion and soil erosion means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

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.

Existing development means buildings and other structures and impervious area existing prior to August 22, 2001.

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 and shall include the resulting conditions.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.

Financial security instrument means a surety bond, performance bond, maintenance bond, irrevocable letter of credit or similar guarantees submitted to the local approval authority to ensure that requirements of this article are carried out in compliance with the stormwater management plan.

Gully erosion means a severe loss of soil caused by or resulting in concentrated flow of sufficient velocity to create a defined flow channel.

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.

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.

Impervious surface means 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 article, 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.

Infill means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.

Infiltration, for the purposes of this article, refers to any precipitation that does not leave the site as surface runoff.

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

Land conservation committee or *LCC* means the county land conservation committee created under Wis. Stats. § 92.06.

Land disturbing activities means 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.

Lightly disturbed site means a site where an area of land is subjected to minor compaction due to the limited removal of vegetative cover or earthmoving activities.

Local approval authority means the municipal staff, agency or contracted entity charged by the local unit of government with responsibility for enforcing stormwater and erosion control ordinances, and specifically includes the city planning department.

Local land division ordinance means any county, city, village or town ordinance adopted under Wis. Stats. ch. 236 to regulate the division of land.

Local zoning ordinance means any county, city, village or town ordinance adopted under Wis. Stats. §§ 59.69, 59.692, 59.693, 60.61, 60.62, 61.351, 61.354, 62.23, 62.231, or 62.234 to regulate the use of land.

Maximum extent practicable (MEP) means 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.

New development means 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.

Nonerosive velocity means 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.

NR means Natural Resources Wis. Admin. Code.

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.

Pervious surface means any land cover that permits rain or melting snow to soak into the ground.

Plan means an erosion control plan required by section 10-125 or a stormwater management plan required by section 10-126.

Plan review agency means the municipal staff, agency or qualified contracted entity charged by the local unit of government with responsibility for reviewing stormwater and erosion control plans under the local stormwater and erosion control ordinance.

Plat review officer means the municipal staff, agency or contracted entity charged by the local unit of government with responsibility for reviewing land divisions, certified survey maps or subdivision plats or any combination thereof under Wis. Stats. ch. 236.

Post-construction site means a construction site following the completion of land disturbing activity and final site stabilization.

Post-development means the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan. The term "post-development" is used to match pre-development and post-development stormwater peak flows as required by this article.

Pre-development means 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). The term "pre-development" is used to match pre-development and post-development stormwater peak flows as required by this article. In a situation where cumulative impervious surface created after August 21, 2001 exceeds the 20,000 square foot threshold, the pre-development conditions shall be those prior to the proposed land disturbance.

Recharge means the portion of the average annual rainfall that infiltrates the soil and becomes groundwater. Recharge does not include evaporation, transpiration, or runoff from the site.

Redevelopment means any construction, alteration or improvement exceeding 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 subsection 10-126(1).

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.

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.

Sedimentation means the deposition of eroded soils at a site different from the one where the erosion occurred.

Sheet and rill erosion means 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.

Site means the bounded area described in an erosion control plan or stormwater management plan.

Slope means the net vertical rise over horizontal run, expressed as a percentage, which represents a relatively homogeneous surface incline or decline over the area disturbed.

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. The term "soil loss rate" does not apply to soil movement resulting from concentrated flow such as gully or bank erosion.

Storm events means the precipitation amounts that occur over a 24-hour period that have a specified recurrence interval for the county. For example, one-year, two-year, ten-year and 100-year storm events mean the precipitation amounts that occur over a 24-hour period that have a recurrence interval of one, two, ten and 100 years, respectively.

Stormwater means the flow of water which results from, and which occurs during and immediately following, a rainfall, snow melt or ice melt event.

Stormwater management means any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality after land development activities.

Stormwater runoff means 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.

Street reconstruction means removal and replacement of the road subgrade, where existing stormwater conveyance systems are modified.

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.

Transportation facility means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under Wis. Stats. § 85.095(1)(b). "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the department pursuant to Wis. Stats. § 281.33.

Unnecessary hardship means 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 the purposes of this article.

(Code 1986, § 20.01; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-01-07, § 1, 1-9-2007; Ord. No. 0-18-2013, § 1, 8-13-2013; Ord. No. 0-3-2017, 3-14-2017)

Cross reference— Definitions generally, § 1-2.

Sec. 10-123. - Legislative findings.

(a) The common council 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. Specifically, soil erosion and stormwater runoff can:

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

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

(3) Clog existing drainage systems, increasing maintenance problems and costs;

(4) Cause bank and channel erosion;

(5) Increase downstream flooding;

(6) Reduce groundwater recharge, which may diminish stream base flows and lower water levels in regional lakes, ponds and wetlands;

(7) Contaminate drinking water supplies;

(8) Increase risk of property damage and personal injury; and

(9) Cause damage to agricultural fields and crops.

(b) The common council also finds that effective sediment and stormwater management depends on proper planning, design and timely installation of conservation and management practices and their continuing maintenance.

(Code 1986, § 20.02; Ord. No. 0-21-06, § 1, 5-920-2006)

Sec. 10-124. - Purpose and intent.

(a) The purpose of this article is to set forth the minimum requirements for construction site erosion control and stormwater management that will diminish threats to public health, safety, public and private property and natural resources of the city.

(b) This article is intended to regulate construction site erosion and stormwater runoff, to accomplish the following objectives:

(1) Promote regional stormwater management by watershed;

(2) 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 city;

(3) Promote infiltration and groundwater recharge;

(4) Protect functional values of natural water courses and wetlands;

(5) Provide a single, consistent set of performance standards that apply to all developments within the city and are consistent with the standards set forth by the county;

(6) Achieve an 80 percent reduction in sediment load rates to the county waters compared to no controls for all new development, a 40 percent reduction in sediment load rates compared to no controls for all redevelopment and street reconstruction and a 20 percent reduction in sediment load rates compared to no controls for existing developments;

(7) Ensure no increase in temperature of stormwater post-construction in order to protect cold water communities;

(8) Ensure no increase in the rate of surface water drainage from sites during or after construction; and

(9) Protect public and private property from damage resulting from runoff or erosion.

(Code 1986, § 20.03; Ord. No. 0-21-06, § 1, 5-9-2006)

Sec. 10-125. - Applicability of requirement for erosion control permits.

Unless expressly exempted by section 10-127, an erosion control permit under section 10-129 shall be required and all construction site erosion control provisions of this article shall apply to any of the following activities in the city:

(1) Land disturbing activity in excess of 4,000 square feet.

(2) Land disturbing activity that involves the excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material.

(3) 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.

(4) Any new public or private roads or access drives longer than 125 feet.

(5) Development that requires a subdivision plat, as defined in the applicable local land division ordinance(s).

(6) 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.

(Code 1986, § 20.04; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-3-2017, 3-14-2017)

Sec. 10-126. - Applicability of requirement for stormwater control permits.

Unless otherwise exempted by section 10-127, a stormwater control permit under section 10-129 shall be required and all stormwater management provisions of this article shall apply to any of the following activities within the city:

(1) Any development after August 22, 2001, that results in the cumulative addition of 20,000 square feet of impervious surface to the site;

(2) Any development that requires a subdivision plat, as defined in the applicable local land division ordinance(s);

(3) Any development that requires a certified survey map, as defined in the applicable local ordinance(s); for property intended for commercial or industrial use;

(4) Redevelopment, as defined in section 10-122.

(5) Notwithstanding the exemptions in section 10-127, other land development activities, including, but not limited to redevelopment or alteration of existing buildings and 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.

(Code 1986, § 20.05; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-3-2017, 3-14-2017)

Sec. 10-127. - Exemptions and clarifications.

(a) The following activities are exempt from all requirements of this article:

(1) Agricultural activities. Stormwater discharges from the planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock, including sod farm and tree nurseries are not regulated by this section. This exemption does not include the construction of structures such as barn, manure storage facilities or barnyard runoff control systems.

(2) Silviculture activities, including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

(3) One-family and two-family dwelling units regulated under the Wisconsin Uniform Dwelling Code. Land disturbing activities in excess of one acre, or not associated with the construction of a dwelling, or less than one acre but part of a larger common plan of development or sale under jurisdiction of the city, are not exempt from this article.

(4) Transportation facility construction projects directed and supervised by the state department of transportation in accordance with section NR 216.42(5), Wis. Admin. Code.

(5) Routine maintenance for project sites that have less than five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(b) The following activities are exempt from the construction site erosion control provisions of section 10-125:

(1) Projects specifically exempted from local erosion control ordinances under state or federal statute. It is the responsibi landowner to demonstrate such exemption with documentation acceptable to the local approval authority.

(2) Projects subject to an approved shoreland erosion control permit under chapter 31.

(c) The following activities are exempt from the stormwater management provisions of section 10-126:

(1) New development sites with less than ten percent connected imperviousness based on complete development of the post construction site, provided the cumulative area of all impervious surfaces is less than one acre. This exemption does not include an exemption from the protective area standard of section 10-131(b)(9) of this chapter.

(2) Agricultural facilities and practices.

(3) Underground utility construction, but not including the construction of any above ground structures associated with utility construction.

(Code 1986, § 20.06; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-18-2013, § 2, 8-13-2013; Ord. No. 0-3-2017, 3-14-2017)

Sec. 10-128. - Preliminary review letter.

(a) *Purpose and intent.* A preliminary review letter provides a potential permit applicant with an initial simple evaluation of whether erosion and stormwater control standards can be met for a proposed site, lot layout and construction design. This review is intended to assist applicants in preparing general site plans and other submittals necessary to obtain an erosion control and stormwater permit. A preliminary review letter does not guarantee that an erosion or stormwater control plan will be approved or that a permit will be issued. Erosion and stormwater control plans and permit applications must meet all applicable standards and criteria for approval.

(b) *Application procedure.*

(1) The local approval authority may charge a fee to compensate for provision of the cost of the preliminary review letter process.

(2) Any person may apply for a preliminary review letter by submitting an application that contains the information required by the local approval authority.

(3) The local approval authority may require a preliminary review letter prior to accepting a petition for rezoning or conditional use application under applicable ordinances, or city planning staff may require a preliminary review letter prior to accepting an application for a certified survey map under applicable ordinances where the following apply:

a. The proposal would involve one or more acres within either the current or proposed boundaries of a commercial or industrial zoning district;

b. The proposed lot or rezone area configuration would necessitate driveways, access roads or other construction that would clearly require an erosion control plan and/or stormwater management plan under section 10-125 and/or 10-126;

c. Natural features of the site including, but not limited to slope, soils, wetlands, or hydrology are such that, in the opinion of the city planning staff or a designated authority, substantial risk of erosion, flooding or other environmental or public safety hazard exists;

(4) Unless expressly waived by the applicant, decisions by the local approval authority to require a preliminary review letter shall be made in writing and shall detail the reasons why the authority believes there to be a substantial risk of erosion, flooding or hazard.

(Code 1986, § 20.07; Ord. No. 0-21-06, § 1, 5-9-2006)

Sec. 10-129. - Erosion and stormwater control permits and administration.

(a) No activity meeting the criteria described in section 10-125 or section 10-126 shall occur and no building permits may be issued, until an erosion control and stormwater control permit is issued by the local approval authority.

(b) *Application requirements.* The applicant must provide the following when requesting a permit:

(1) Completed application form:

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 article.

b. If a landowner appoints an agent to submit an application pursuant to subsection (b)(1)a. of this section, the landowner shall be bound by all of the requirements of this article and the terms of any permit issued to the agent.

(2) Fees as required by section 10-135.

(3) Copy of preliminary review letter, as described in section 10-128, if applicable.

(4) If required by section 10-125, an erosion control plan meeting all the standards of section NR 216.46, Wis. Admin. Code, and the applicable performance standards in section NR 151.11, Wis. Admin. Code, for construction sites or section NR 151.23, Wis. Admin. Code, for transportation facility sites, and section 10-130, or a simplified checklist as described in section 10-130.

(5) If required by section 10-126, a stormwater management plan meeting all of the standards of section NR 216.47, Wis. Admin. Code, and the applicable performance standards in sections NR 151.121 to NR 151.128, Wis. Admin. Code, for construction sites or sections NR 151.242 to NR 151.249, Wis. Admin. Code, for transportation facility sites, and section 10-131 and a draft maintenance agreement as described in subsection 10-131(a)(10).

(6) Copies of permits or permit applications or approvals required by any other governmental entity.

(7) 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.

(8) An estimate of the cost of completion and installation of all elements of the approved erosion control and stormwater management plans.

(9) Evidence of financial responsibility to complete the work proposed in the plan. The local approval authority may require a financial security instrument sufficient to guarantee completion of the project.

(10) A plan to manage solid waste on construction sites such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste to reduce adverse impacts from stormwater runoff.

(c) *Approval process.*

(1) The local approval authority shall verify that the permit application is complete under subsection (b) of this section. The local approval authority or applicant shall forward the plan to the plan review agency for review and approval. The plan review staff shall review the plan for compliance with the standards identified in sections 10-130 and 10-131.

(2) The plan review staff shall either approve the submitted plan or notify the local approval authority of any deficiencies. Staff engaged in this review and approval process shall be certified where appropriate by the state department of commerce for this purpose.

(3) The local approval authority shall notify the applicant in writing of any deficiency in the proposed plan and the applicant shall be given an opportunity to correct any deficiency.

(4) Where installed stormwater practices will be privately-owned, an affidavit which describes the property by legal description, notifying future prospective purchasers of the existence of a stormwater permit issued under this article and applicable plan, timetables and potential liability imposed by subsection (h)(3) of this section for failure to bring the property into compliance with this article after notification, shall be recorded with the county register of deeds prior to issuance of an erosion and stormwater control permit. Such information shall also be noted on every plat and certified survey map.

(5) Upon approval of the plan review agency, the erosion control or stormwater management permit shall be issued by the local approval authority after the applicant has met all other requirements of this article.

(d) *Permit requirements.*

(1) 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. Stormwater components of the plan shall be maintained in perpetuity.

(2) The permittee is responsible for installation of all BMPs as identified in the approved erosion control plan and stormwater management plan.

(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) Application for a permit shall constitute express permission by the permittee and landowner for the local approval authority to enter the property for purposes of inspection under subsection (e) of this section or curative action under subsection (h)(3) of this section. The application form shall contain a prominent provision advising the applicant and landowner of this requirement.

(5) 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.

(6) 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, local approval authority, inspection staff and other authorized personnel.

(e) *Inspections.*

(1) Application for a permit under this article shall constitute permission by the applicant and landowner for the local approval authority to enter upon the property and inspect during the construction phase prior to the inspections pursuant to subsections (e)(4) and (e)(6) of this section, as necessary to confirm compliance with the requirements of this article.

(2) As part of the plan approval process, the local approval authority shall determine the minimum number of inspections required to ensure compliance. The site of any regulated land disturbing activity shall be inspected once every 30 days, or more frequently as determined by the local approval authority during the construction phase with assistance from the plan review agency staff.

(3) The permittee shall notify the local approval authority within ten days after installation of all practices in an approved erosion control plan and achievement of soil stabilization. The permittee shall inspect the site weekly, prior to every forecasted rain fall of one-half inch or greater, and within 24 hours following a rainfall of one-half inch or greater. Written documentation of each inspection shall be maintained at the construction site and shall include the time, date and location of inspection, the phase of land disturbance at the construction site, person conducting the inspection, assessment of control practices, and a description of any erosion or sediment control measure installation or maintenance performed in response to the inspection.

(4) The local approval authority shall inspect the property to verify compliance with the erosion control plan within ten days of notification of soil stabilization.

(5) Within ten days after installation of all practices in an approved stormwater management plan, the permittee shall notify the local approval authority and submit drawings documenting construction. A professional engineer shall submit as-built 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 local approval authority.

(6) The local approval authority shall inspect the property to verify compliance within ten days of notification.

(7) Maintenance is the responsibility of the owner and facilities are subject to inspection and orders for repairs.

(f) *Permit transfers.*

(1) When a permittee and landowner act to transfer an interest in property subject to an approved plan prior to completion of the proposed steps to attain soil stabilization, the permittee must secure approval from the local approval authority.

(2) When a permittee and landowner transfer ownership, possession or control of real estate subject to either or both an uncompleted erosion control and a stormwater management plan, the successor in interest to any portion of the

real estate shall be responsible to control soil erosion and runoff and shall comply with the minimum standards provided in this article.

(3) When ownership, possession or control of property subject to an uncompleted erosion control or stormwater management plan, or both, is transferred, the former owner (seller) shall notify the new owner (buyer) as to the current status of compliance with notice to the authority and provide a copy of the erosion control plan or stormwater management plan, or both.

(4) Transfers of interest in real estate subject to an approved, uncompleted plan may be conducted consistent with this article under any of the following arrangements:

a. The transferee shall file a new, approved erosion control or stormwater management plan, or both, with the authority.

b. The transferee shall obtain an approved assignment from the authority as subpermittee to complete that portion of the approved plan regulating soil erosion and runoff on the transferee's property.

c. The permittee shall provide the authority with a duly completed and executed continuing surety bond or certified check in an amount sufficient to complete the work proposed in the approved plan; at the time of transfer, the permittee may seek to reduce the surety bond or certified check to the appropriate amount to complete remaining work. If the transferor enters into escrow agreements with transferees to complete an approved plan, these funds shall be available to the authority to attain plan compliance. When an approved erosion control plan and, if required, a stormwater management plan is or are not completed as proposed, the authority may use the surety bond to complete remaining work to achieve plan compliance.

(g) *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 local approval authority in consultation with the plan review agency prior to implementation of such changes. One permit revision is allowed at no charge. The second and subsequent revisions, to a maximum of five revisions, cost $50.00 each.

(h) *Violations and enforcement:*

(1) Stop work order.

a. Whenever the local approval authority finds any noncompliance with the provisions of this article, the local approval authority 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 local approval authority shall post in a conspicuous place on the premises, a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until noncompliance is corrected.

b. The stop work order shall provide the following information:

1. Date of issuance;

2. Reason for posting;

3. The signature of the inspector posting the card; and

4. The address or legal description of the property.

c. It shall be a violation of this article for the unauthorized removal of the stop work order from the premises.

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

a. The permittee, landowner and contractor shall have 24 hours from the time and date of notification by the local approval authority to correct any noncompliance with the plan when notification is by either personal communication of noncompliance to the owner or contractor or their respective agents or written notice sent by certified mail to the owner or the contractor.

b. If notice is not provided under subsection (h)(2)a of this section, the permittee and landowner shall have 72

hours to correct any noncompliance with the plan when notification is by posting notice in a conspicuous place on the site or sending notice by facsimile transmission to the owner or contractor.

(3) If any noncompliance is not corrected within the time periods specified in subsection (h)(2)a or (h)(2)b of this section, the permittee and landowner authorize the local approval authority to take any action, to perform any work or commence any operations necessary to correct conditions upon 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 such actions and such reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.

(4) If the permittee has filed an appeal under subsection 10-134(a)(1) prior to the expiration of the time for compliance under subsection (h)(2) of this section, the local approval authority 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.

(i) *Penalties.*

(1) Any person, firm, company or corporation, owner, occupant or other user of the premises who violates, or refuses to comply with, or resists the enforcement of, any of the provisions of this article shall be subject to a forfeiture of not less than $200.00 nor more than $1,000.00 and costs of prosecution. Each day that a violation exists shall constitute a separate offense, and such violations shall be prosecuted in municipal court.

(2) Any person who has the ability to pay any forfeiture entered against him under this article, but refuses to do so may be confined in the county jail until such forfeiture is paid, but in no event to exceed 30 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.

(j) *Timeframe and expiration.*

(1) Erosion control plan timetables and construction schedules must begin within one year of the date of the application for permit is submitted.

(2) All applications for permit shall expire:

a. One year from the date the applicant is notified of an application deficiency, if the applicant has not submitted additional information to adequately address the deficiency within one year; or

b. Three years from the date of application.

(3) Erosion control permits shall expire:

a. Upon the stabilization date included in the approval plan and included in the analysis provided to meet the requirements of ten.

b. A maximum of three years after the permit is issued.

(Code 1986, § 20.08; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-18-2013, § 3, 8-13-2013; Ord. No. 0-3-2017, 3-14-2017)

Sec. 10-130. - Erosion control plan requirements.

(a) *Plan materials.* Erosion control plans required under section 10-125 may include consideration of adjoining landowners' cooperative efforts to control transport of sediment and, except as specifically exempted in this section, shall include at a minimum the information required in section NR 216.46, Wis. Admin. Code, including the following information:

(1) Property lines, lot dimensions, and limits of disturbed area;

(2) Limits of impervious area including buildings. Include all public and private roads, interior roads, driveways, parking lots, and indicate type of paving and surfacing material;

(3) 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 and delineated wetland boundaries. A certified flood zone

determination and/or wetland delineation may be required at the applicant's expense;

(4) Cross sections of and profiles of channels, swales, and road ditches;

(5) Culvert sizes;

(6) Direction of flow of runoff;

(7) Watershed size for each drainage area;

(8) Design discharge for ditches and structural measures;

(9) Runoff velocities;

(10) Fertilizer and seeding rates and recommendations;

(11) Time schedules for stabilization of ditches and slopes;

(12) 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;

(13) 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;

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

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

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

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

(18) Existing and proposed elevations (referenced to the National Geodetic Vertical Datum of 1929) and existing and proposed contours in the area, where deemed necessary; [and]

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

(b) *Simplified plan checklists.* Applicants may submit erosion control proposals using simplified checklists of standard erosion control practices, on a standard form approved by the local approval authority, wherever all of the following conditions exist:

(1) The site does not exceed 20,000 square feet in area; and

(2) Soil on slopes steeper than six percent will be exposed for less than 15 days.

(3) Soil on slopes less than six percent will be exposed for less than six months.

(c) *Review of simplified plan checklists.* Simplified plan checklists shall be reviewed by the local approval authority for completeness and accuracy.

(d) *Erosion control performance standards.* The erosion control plan shall be designed to meet the following performance standards and other requirements of this section.

(1) Proposed design, suggested location and phased implementation of effective, practicable erosion control measures for plans shall be designed, engineered and implemented to achieve the following results:

a. Prevent gully and bank erosion;

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 seven and one-half tons per acre annually; and

c. Discharges from new construction sites must have a stable outlet capable of carrying designed flow as required in subsection 10-131(b)(3), 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.

(2) Plan compliance under subsection (d)(1) of this section shall be determined using the U.S. Natural Resources Conservation Service Technical Guide or another commonly accepted soil erosion methodology approved by the

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) a. Except as authorized in this section, 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 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 vertical 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.
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 bears the burden of proof as to the established grade at the property line and the topography within five feet of the property line. The director of planning and development may require detailed site grading plans of existing and proposed conditions to be submitted before commencement of land disturbing activities.

b. 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.

c. Development in floodplain districts requiring fill to comply with chapter 30 is exempt from this subsection.

d. Upon written application, the director of planning and development 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 section. An exception authorized under this subsection may not direct additional stormwater runoff toward adjacent properties. Proposed exceptions may include but are 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 director of planning and development 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.

(5) An erosion control plan required under this section shall meet the requirements of section NR 216.46, Wis. Admin. Code, and the applicable performance standards in section NR 151.11, Wis. Admin. Code, for construction sites or section NR 151.23, Wis. Admin. Code, for transportation facility sites.

(Code 1986, § 20.09; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-3-2017, 3-14-2017)

Sec. 10-131. - Stormwater management plan requirements.

(a) *Plan materials.* Stormwater management plans required under section 10-126 shall satisfy all of the requirements in subsection (b) of this section, and shall address at a minimum the following information:

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

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

(3) Identification of the entity responsible for long-term maintenance of the project;

(4) A map showing drainage areas for each watershed area;

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

a. Pre-existing peak 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 (Tc) used in calculations;

(6) 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:

a. Property lines and lot dimensions, including all existing and proposed buildings and setbacks;

b. All public and private roads, interior roads, driveways and parking lots. Show traffic patterns and type of paving and surfacing material;

c. 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, 100-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;

d. Depth to bedrock;

e. Depth to seasonal high water table;

f. The extent and location of all soil types as described in the Dane County Soil Survey, slopes exceeding 12 percent, and areas of natural woodland or prairie;

g. 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;

h. Elevations, sections, profiles and details as needed to describe all natural and artificial features of the project;

i. Soil erosion control and overland runoff control measures, including runoff calculations as appropriate;

j. Detailed construction schedule;

k. Copies of permits or permit applications required by any other governmental entities or agencies;

l. Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features;

m. Location of all stormwater management practices;

n. All existing and proposed drainage features;

o. The location and area of all proposed impervious surfaces; and

p. The limits and area of the disturbed area.

q. All buildings and outdoor uses, existing and proposed, including all dimensions and setbacks.

(7) Engineered designs for all structural management practices;

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

(9) If required under subsection (b)(6) of this section, a description and plans to control temperature of runoff;

(10) A maintenance plan and schedule for all permanent stormwater management practices as recorded on the affidavit required in subsection 10-129(c)(4). This plan shall, at a minimum, contain the following information and provisions:

a. Identification of the owner(s) of the land parcel(s) where BMP(s) are located;

b. Long term maintenance plan. A description of all long term maintenance activities that will likely be required for each BMP included in the agreement, and an estimated time interval between each activity;

c. Access. Authorization for vehicle access, including a minimum 15-foot wide access easement dedicated to the city, to allow for future BMP maintenance work.

d. Maintenance responsibility. Identification of the person(s), organization, municipality or other entity responsible for long term maintenance of the stormwater BMP.

e. Inspections shall be performed by the responsible party. The responsible party shall maintain a log of inspection activities.

(11) A summary of infiltration calculations including:

a. Pre-developed infiltration volume;

b. Calculated infiltration volume goal;

c. Achieved post development infiltration volume.

(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) For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of section NR 151, Wis. Admin. Code, in effect on or after October 1, 2004, the permittee shall meet the total suspended solids reduction, peak flow control, infiltration, and protective area standards applicable to the older development or meet the redevelopment standards of this section, whichever is more stringent.

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

a. For new development, design practices to retain soil particles greater than five microns on the site (80 percent reduction) resulting from a one-year 24-hour storm event (two and one-half inches over a 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 practices to retain soil particles greater than 20 microns on the entire site (40 percent reduction) resulting from a one-year 24-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.

c. For in-fill development by design, reduce to the maximum extent practicable, the total suspended solids load by 80 percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80 percent total suspended solids reduction to meet the requirements of this subdivision.

d. Maximum extent practicable. If the design cannot meet a total suspended solids reduction performance standard in subsections (a)—(c), the stormwater management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.

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

(3) 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 one-half inch of runoff will be treated using the best oil and grease removal technology available. This requirement may be waived by the plan reviewer only when the applicant can demonstrate that installation of such practices is not necessary.

(4) Peak discharge.

a. The maximum runoff curve number (RCN) used in such calculations shall be those shown 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 modification. Where practices have been implemented to restore soil structure to pre-developed conditions, no permeability class modification is required.

Table 1. Maximum Pre-development Runoff Curve Numbers	
Runoff Curve Number	Hydrologic Soil Group *

	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	51	68	78	83
* When dual HSG are specified, the drained condition shall be assumed				

b. *Runoff rate control—design standards.* Except for redevelopment projects, all stormwater facilities shall be designed, installed and maintained to effectively accomplish the following:

1. Maintain pre-development peak runoff rates for the one-year, 24-hour storm event (2.549 inches over 24-hour duration using the NRCS MSE4 storm distribution).
2. Maintain pre-development peak runoff rates for the two-year, 24-hour storm event (2.984 inches over 24-hour duration using the NRCS MSE4 storm distribution).
3. Maintain pre-development peak runoff rates for the ten-year, 24-hour storm event (4.209 inches over 24-hour duration using the NRCS MSE4 storm distribution).
4. Safely pass the maintain pre-development peak runoff rates for the 100-year, 24-hour storm event (6.066 inches over 24 hours' duration using the NRCS MSE4 storm distribution).

(5) Outlets. Discharges from new construction sites must have a stable outlet capable of carrying designed flow as required in subsection (b)(3)b of this section, 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 waterbody.

(6) Infiltration.

a. For both residential and nonresidential developments, design practices to infiltrate sufficient runoff volume so that post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based upon average annual rainfall.

b. The maximum runoff curve number (RCN) used in such calculations shall be those specified in subsection (b)(3)a Table 1.

c. If, when designing appropriate infiltration systems, more than two percent 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. 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 this report, or by a site specific analysis using other appropriate techniques. If this alternative design approach is taken, at least two percent 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 be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality.

e. *Prohibitions.* Notwithstanding subparagraphs a. through c., infiltration systems may not be installed in any of the following areas:

1. Areas associated with tier 1 industrial facilities identified in section 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 section 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 direct conduits to groundwater.
5. 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 the top of bedrock are in accordance with Table 2:

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	
All Other Impervious Source Areas	3 Feet or More	Filtering Layer

6. Areas with runoff from industrial, commercial and institutional parking lots, 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 section NR 811.16(4), Wis. Admin. Code, or within the separation distances listed in section NR 812.08, Wis. Admin. Code, for any private well or non-community well 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 section NR 720.03(2), Wis. Admin. Code, are present in the soil through which infiltration will occur.

f. *Alternate use of 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.

g. *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 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. *Exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, and/or infiltration practices located in the following areas may be credited under the following

conditions, but the decision to infiltrate runoff from these source areas or under these conditions is optional:

1. Parking areas and access roads less than 5,000 square feet for commercial development.
2. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions in subparagraph e.
3. Except as provided under subsection (b)(1) of this section, redevelopment post-construction sites.
4. Roads in commercial, industrial, and institutional land uses, and arterial roads.
5. Areas where the infiltration rate of the soil is less than six/tenths of one inch/hour measured at the bottom of the proposed infiltration system where the soil layer is not easily removed or manipulated.

(7) Thermal control. 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 state department of natural resources as:

a. A cold water community as identified through sections NR 102.04(3)(a), NR 104, Wis. Admin. Code, and class I, class II, and class III trout streams identified in "Wisconsin Trout Streams," DNR publication PUB-FH-806-2002 or its successor.

b. Rivers or streams proposed by the state department of natural resources as cold water communities and class I, II, and III trout streams.

(8) Thermal control continued. The stormwater management plan does not have to meet the requirement in subsection (b)(6) of this section if the applicant can justify by use of a model approved by the county conservationist that practices are not necessary because the temperature increase of runoff from the site post-development will be zero.

(9) *Thermal control continued.* A current list and maps of affected watersheds shall be available for reference at the office of the local approval authority and/or the plan review agency.

(10) *Protective areas performance standard.*

a. *Definition.* In this section, "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

1. For outstanding resource waters and exceptional resource waters, 75 feet.
2. For perennial and intermittent streams identified on a U.S. geological survey seven and one-half minute/series topographic map, or a county soil survey map, whichever is more current, 50 feet.
3. For lakes, 50 feet.
4. For wetlands not subject to paragraphs 5. or 6., 50 feet.
5. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.

Note— Information on wetland types, including ephemeral ponds, is available at (608) 266-7012.

6. For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include: degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
7. In paragraphs 4. to 6., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in section NR 103.03, Wis. Admin. Code.

8. Wetland boundary delineation shall be made in accordance with section NR 103.08 (lm), Wis. Admin. Code. T apply to wetlands that have been completely filled in compliance with all applicable state and federal regula for wetlands that have been partially filled in compliance with all applicable state and federal regulations sh wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the need not be met in that location.
9. For concentrated flow channels with drainage areas greater than 130 acres, ten feet.
10. Notwithstanding paragraphs 1. to 9., the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

Note— A stream or lake is not eligible for a lower protective area width even if contiguous to a less susceptible wetland.

b. *Applicability.* This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection d.
c. *Requirements.* The following requirements shall be met:
    1. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written site-specific explanation.
    2. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

Note— It is recommended that seeding of non-invasive vegetative cover be used in the protective areas. Some invasive plants are listed in ch. NR 40, Wis. Admin. Code. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover may be measured using the line transect method described in the University of Wisconsin extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

    3. Best management practices such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.

Note— Other laws, such as Wis. Stats. ch. 30 and chs. NR 103, 115, 116, and 117, Wis. Admin. Code, and their associated review and approval processes may apply in the protective area.

d. *Exemptions* . This section does not apply to any of the following:
    1. Except as provided under subsection (b)1. of this section, redevelopment post-construction sites.
    2. In-fill development areas less than five acres.
    3. Structures that cross or access surface waters such as boat landings, bridges, and culverts.
    4. Structures constructed in accordance with Wis. Stats. § 59.692(lv).
    5. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the requirements of sections NR 151.122 to 151.123, Wis. Admin. Code, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note— A vegetated protective area to filter runoff pollutants from post-construction sites described in paragraph 5. is not necessary since the runoff at that location is treated prior to entering the surface water. Other practices necessary to meet the requirements of this section, such as a swale or pond, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state. The requirements of ch. NR 103, Wis. Admin. Code, still apply and should be considered before runoff is diverted to or from a wetland.

(c) *Stormwater management goals.* The following standards shall be met whenever possible, and proposed design,

suggested location and implementation of practices to meet these goals shall be included in plans:

(1) For existing development, design practices to retain soil particles greater than 40 microns on the site (20 percent reduction) resulting from a one-year 24-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 (40 percent reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment resuspension.

(Code 1986, § 20.10; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-01-07, § 1, 1-9-2007; Ord. No. 0-18-2013, § 4, 8-13-2013; Ord. No. 0-3-2017, 3-14-2017)

Sec. 10-132. - Off-site stormwater management.

Off-site stormwater management is allowed, provided that provisions are made to manage stormwater by an off-site facility, and 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 requirement standards of the ordinance from which this article is derived; and

(3) The local approval authority is satisfied that the facility has a legally obligated entity responsible for its long-term operation and maintenance.

(Code 1986, § 20.11; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-3-2017, 3-14-2017)

Sec. 10-133. - Technical standards and specifications.

The design of all best management practices designed to meet the requirements of this article 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 or stormwater management standards by the Wisconsin Department of Natural Resources;

(3) Any other technical methodology approved by the Dane County conservationist.

(Code 1986, § 20.12; Ord. No. 0-21-06, § 1, 5-9-2006; Ord. No. 0-3-2017, 3-14-2017)

Sec. 10-134. - Appeals and variances.

(a) *Appeals.*

(1) Any person aggrieved by any decision of the local approval authority pursuant to this article may appeal to the public works committee. Such appeal shall be taken within 30 days after the challenged decision. Notice of appeal setting forth the specific grounds for the appeal shall be filed with the local approval authority and the city clerk. The zoning administrator shall provide to the public works committee the record upon which the action appealed from was taken.

(2) The public works committee shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under Wis. Stats. ch. 985, as well as give due notice to the parties in interest, and decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

(3) The public works committee may, in conformity with the provisions of this article, 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 ought to be made and shall have all the powers of the officer from whom the appeal is taken.

(4) The concurring vote of a majority of the public works committee shall be necessary to reverse the decision of the local authority.

(b) *Variances.*

(1) An applicant may include in the application a request for a variance from the requirements of section 10-130 or section 10-131. No variance shall be granted unless the applicant demonstrates and the local approval authority, after consultation with the Dane County conservationist, finds that all of the following conditions are present:

a. Enforcement of the standards set forth in this article will result in unnecessary hardship to the landowner;

b. The hardship is due to exceptional physical conditions unique to the property;

c. Granting the variance will not adversely affect the public health, safety or welfare, nor be contrary to the spirit, purpose and intent of this article;

d. The project will have no impact upon any of the stated purposes as set forth in section 10-123;

e. The applicant has proposed an alternative to the requirement from which the variance is sought that will provide equivalent protection of the public health, safety and welfare, the environment and public and private property;

f. The net cumulative effect of the variance will not impact downstream conditions; and

g. Existing regional facilities are shown to meet the performance standards of this article.

(2) If all of the conditions set forth in subsection (b)(1) of this section are met, a variance may only be granted to the minimum extent necessary to afford relief from the unnecessary hardship, with primary consideration to water quality and impact downstream conditions.

(3) A variance from the provisions of subsections 10-131(b)(1), (b)(2) and (b)(6) may only be granted if:

a. The applicant has met the requirements of subsection (b)(1) of this section; and

b. The applicant will be denied all reasonable and beneficial use of the property if the variance is denied.

(4) A person aggrieved by a variance determination by the local approval authority may appeal the decision to the public works committee pursuant to subsection (a) of this section.

(5) A person aggrieved by a decision of the public works committee regarding a variance may appeal that decision to the board of appeals.

(Code 1986, § 20.13; Ord. No. 0-21-06, § 1, 5-9-2006)

Sec. 10-135. - Permit fees.

(a) The erosion control and stormwater management permit fee shall be $200.00.

(b) The fee for a preliminary review letter shall be $200.00. If a preliminary approval letter has been obtained, the erosion control and stormwater management base fee shall be waived.

(c) For sites required to obtain an erosion control permit under section 10-125, there shall be an additional fee of $0.004 per square foot of disturbed area.

(d) For sites required to obtain a stormwater control permit under section 10-126, there shall be an additional fee of $0.005 per square foot of impervious area and $0.0025 per square foot of redeveloped impervious area.

(e) The common council authorizes city administrative staff to modify the permit and fee amounts listed in this erosion control and stormwater management ordinance on January 1 of each year following the adoption of this article, based upon the CPI-U for the Midwest Region, size "d" as prepared by the Federal Department of Labor, so long as the cumulative interim percentage of inflation warrants an increase of $5.00 or more on a round dollar amount and an increase to the next whole cent on amounts expressed in hundredths of a dollar. These amounts may also be modified by future council action.

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

(Code 1986, § 20.14; Ord. No. 0-21-06, § 1, 5-9-2006)

Sec. 10-136. - Prohibited stormwater discharge and connection.

(a) *Purpose:* The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the city and to protect 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 city in order to comply with the requirements of the Clean Water Act, Chapter 283.33, Wis. Stats., and the Wisconsin Pollutant Discharge Elimination System municipal storm water discharge permit program under Chapter NR 216, Wis. Adm. Code.

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 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:* For the purposes of this section, the following definitions are applicable:

Authorized agency means employees or designees of the director or directors of the municipal agency or agencies of the city designated to administer or enforce this section.

Illicit connection means any drain or conveyance, whether on the surface or subsurface, which allows the discharge of sanitary waste to the municipal separate storm sewer and any connections to the municipal separate storm sewer system from indoor drains and sinks.

Illicit discharge means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water except discharges with a Wisconsin Pollutant Discharge Elimination System permit or other discharges allowed locally.

Municipal separate storm sewer or MS4 means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets the following criteria:

a. Owned or operated by the City of Stoughton.

b. Designed or used for collecting or conveying stormwater.

c. Which is not a combined sewer conveying both sanitary wastewater and stormwater.

d. Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

Non-stormwater discharge means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater.

Stormwater means surface runoff and drainage of rainfall and snow or ice melt.

Waters of the state means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

(c) *Applicability and enforcement:* This section shall apply to all discharges to the MS4 and to all activities that can reasonably be expected to result in a discharge to the MS4. The city shall administer, implement, and enforce the provisions of this section. Any powers granted or duties imposed upon the authorized agency may be delegated in writing by the mayor to persons or entities acting in the beneficial interest of or in the employ of the city.

(d) *Minimum standards:* The standards set forth herein and promulgated pursuant to this section are minimum standards; the section does not intend nor imply that compliance by any person will ensure that there will be no contamination, or pollutic unauthorized discharges.

(e) *Discharge prohibitions:*

(1) *Prohibition of illicit discharges.* No person shall discharge or cause to be discharged into the MS4 or waters of the state located within the city 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 MS4 is prohibited. The following non-stormwater discharges or flows are generally not considered illicit discharges if done in a non-polluting 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 fire fighting.

(2) *Prohibition of illicit connections.*

a. The construction, use maintenance or continued existence of illicit connections to the MS4 is prohibited.

b. This prohibition expressly includes, without limitation, the continued use of illicit connections made prior to the adoption of this section, 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 MS4, or allows such a connection to continue.

(f) *Monitoring of discharges and access to facilities:* The authorized agency shall be permitted to enter and inspect private or public 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 which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized agency.

(g) *Notification of spills:* Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, or water of the state, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release that includes hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release including only non-hazardous materials, said person shall notify the authorized agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized agency within three business days of the phone notice.

(h) *Enforcement:* It shall be unlawful for any person to violate any provision of this section. Any person who fails to comply with the provisions of this section shall forfeit no less than $100.00 nor more than $500.00 and also pay fees and disbursements incurred in the prosecution of such violations. Each and every day during which a violation continues shall constitute a separate offense. The city may also institute appropriate action or proceedings to enjoin violations of this section.

(i) *Severability:* The provisions of this section are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this section.

(Ord. No. 0-23-08, § 1, 10-14-2008)

Secs. 10-137—10-160. - Reserved.