

CHAPTER 32 POST-CONSTRUCTION STORMWATER MANAGEMENT AND POND REGULATIONS

32-1. AUTHORITY.

- A. The stormwater management provisions of this Chapter are adopted by the Village Board under the authority granted by Wis. Stat. s. 61.354. This Chapter supersedes all provisions of any ordinance previously enacted under Wis. Stat. s. 61.35 that relates to stormwater management regulations. Except as otherwise provided in Wis. Stat. s. 61.354, Wis. Stat. s. 61.35 applies to this Chapter and to any amendments to this Chapter.
- B. The provisions of this Chapter are deemed not to limit any other lawful regulatory powers of the same Village or other governing body.
- C. The Village Board hereby designates the Zoning Administrator and/or Village Engineer to administer and enforce the provisions of this Chapter.
- D. The requirements of this Chapter do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - 1. Wisconsin Department of Natural Resources administrative rules, permits or approvals, including but not limited to those authorized under Wis. Stat. ss. 281.16 and 283.33.
 - 2. Targeted performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code s. NR 151.004.

32-2. FINDINGS OF FACT.

The Village Board finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- A. Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- B. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- C. Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- D. Reduce the quality of groundwater by increasing pollutant loading.
- E. Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- F. Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- G. Undermine floodplain management efforts by increasing the incidence and levels of flooding.

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32-3. PURPOSE AND INTENT.

- A. Purpose. The general purpose of this Chapter is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
1. Further the maintenance of safe and healthful conditions.
 2. Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 3. Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- B. Intent. It is the intent of the Village Board that this Chapter regulate post-construction storm water discharges to waters of the state. This Chapter may be applied on a site-by-site basis. The Village Board recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this Chapter is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stat. s. 281.16 for regional storm water management measures and have been approved by the Village Board, it is the intent of this Chapter that the approved plan be used to identify post-construction management measures acceptable for the community.

32-4. APPLICABILITY AND JURISDICTION.

- A. Applicability.
1. Where not otherwise limited by law, this Chapter applies after final stabilization to a site of land disturbing construction activity meeting any of the criteria in this section, unless the site is otherwise exempt under section 2.
 - a. A post construction site that had five or more acres of land disturbing construction activity.
 - b. A post-development construction site that had one or more acres of land disturbing construction activity after March 10, 2003.
 2. A site that meets any of the criteria in this section is exempt from the requirements of this Chapter.
 - a. A redevelopment post-construction site with no increase in impervious area.
 - b. A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.

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- c. Nonpoint discharges from agricultural facilities and practices.
 - d. Nonpoint discharges from silviculture activities.
 - e. Routine maintenance for project sites under five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 - f. Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
 - g. Notwithstanding the applicability requirements in section 1., this Chapter applies to post-construction sites of any size that, in the opinion of the Zoning Administrator, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- B. Jurisdiction. This Chapter applies to post construction sites within the boundaries and jurisdiction of the Village of Rochester.
- C. Exclusions. This Chapter is not applicable to activities conducted by a state agency, as defined under Wis. Stat. s. 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stat. s. 281.33(2).

32-5. DEFINITIONS.

“Administering authority” means a governmental employee, or a regional planning commission empowered under Wis. Stat. s. 61.354 that is designated by the Village Board to administer this Chapter.

“Agricultural facility” and “Agricultural practice” have the meanings given in Wis. Stat. s. 281.16.

“Average annual rainfall” means a calendar year of precipitation, excluding snow, which is considered typical.

“Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

“Business day” means a day the office of the Zoning Administrator is routinely and customarily open for business.

“Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

“Combined sewer system” means a system for conveying both sanitary sewage and storm water runoff.

“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.

“Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

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

“Division of land” means the creation from one parcel of four or more parcels or building sites of five or fewer acres each in area where such creation occurs at one time or through the successive partition within a five year period, or such lesser amounts as may be set forth in Chapter 16 of this Municipal Code.

“Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

“Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.

“Exceptional resource waters” means waters listed in Wis. Admin. Code s. NR 102.11.

“Extraterritorial” means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

“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% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

“Financial guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the zoning administrator by the responsible party to assure that requirements of the Chapter are carried out in compliance with the storm water management plan.

“Governing body” means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

“Impervious surface” means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.

“In-fill area” means an undeveloped area of land located within existing development.

“Infiltration” means the entry of precipitation or runoff into or through the soil.

“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.

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

“Land disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

“Maintenance agreement” means a legal document that provides for long-term maintenance of storm water management practices.

“MEP” or “maximum extent practicable” means a level of implementing best management practices in

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

“New development” means development resulting from the conversion of previously undeveloped land or agricultural land uses.

“Off-site” means located outside the property boundary described in the permit application.

“On-site” means located within the property boundary described in the permit application.

“Ordinary high-water mark” has the meaning given in Wis. Admin. Code s. NR 115.03(6).

“Outstanding resource waters” means waters listed in Wis. Admin. Code s. NR 102.10.

“Percent fines” means the percentage of a given sample of soil, which passes through a #200 sieve.

“Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

“Permit” means a written authorization made by the Zoning Administrator to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

“Permit administration fee” means a sum of money, in an amount set by the Village Board and set forth in the Fee Schedule, paid to the Zoning Administrator by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

“Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

“Pollutant” has the meaning given in Wis. Stat. s. 283.01(13).

“Pollution” has the meaning given in Wis. Stat. s. 281.01(10).

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

“Pre-development condition” means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

“Preventive action limit” has the meaning given in Wis. Admin. Code s. NR 140.05(17).

“Redevelopment ” means areas where development is replacing older development.

“Responsible party” means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.

“Runoff” means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

“Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets

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all of the following criteria:

- A. Is designed or used for collecting water or conveying runoff.
- B. Is not part of a combined sewer system.
- C. Is not draining to a storm water treatment device or system.
- D. Discharges directly or indirectly to waters of the state.

“Site” means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

“Stop work order” means an order issued by the Zoning Administrator which requires that all construction activity on the site be stopped.

“Storm water management plan” means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

“Storm water management system plan” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

“Technical standard” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

“Top of the channel” means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

“TR-55” means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

“Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

“Waters of the state” has the meaning given in Wis. Stat. s. 281.01(18).

32-6. TECHNICAL STANDARDS.

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

- A. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of Wis. Admin. Code ch. NR 151.
- B. Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Zoning Administrator.
- C. In this Chapter, the following year and location has been selected as average annual rainfall: Milwaukee, 1969 (Mar. 28-Dec. 6).

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32-7. PERFORMANCE STANDARDS.

- A. Responsible Party. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.
- B. Plan. A written storm water management plan in accordance with s. 32-9 shall be developed and implemented for each post-construction site.
- C. Requirements. The plan required under subsection B shall include the following:
 - 1. Surface Flow. Natural swales and depressional storage areas shall be incorporated into stormwater facility design wherever practical. Swales and ditches, together with any underground storm sewer system, shall provide an adequate outfall for runoff from the 100-year frequency 24-hour duration storm. In areas where swales/ ditches can not be provided, the underground storm sewer system shall be designed for the 100-storm condition. The developer shall submit to the Village design computation for the 100-year overland flow routes.
 - 2. Storm Sewer. Where required by the Zoning Administrator or Village Engineer, storm sewers may be constructed to drain the development and any contiguous drainage areas. The developer shall submit to the Village two copies of the storm sewer design computation, including pipe design, inlet spacing, inlet capacity and hydraulic grade line.
 - 3. Stormwater Detention. Stormwater detention is subject to review by the Zoning Administrator and Village Engineer. Detention basins shall have a high water level based on a 100-year design. The basin berm shall have one foot of freeboard above the 100-year high water level. The detention basin shall have an outlet based on the 100-year recurrence interval of the land in its natural pre-development state. Detention to be provided shall be for the entire site in its natural state, and off-site tributary flows shall be bypassed either through or around the detention facility. The stormwater detention facility shall be constructed and functioning prior to general site construction activities. Existing mapped wetlands, as determined by the Village, may not be used to provide the required stormwater detention volume unless authorized by the Wisconsin Department of Natural Resources, the U.S. Army Corps of Engineers and the Village Engineer.
 - 4. 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, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subsection.
 - b. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subsection.
 - c. For in-fill development under five acres that occurs within ten years after the effective date of this Chapter, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subsection.

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d. For in-fill development that occurs ten or more years after the effective date of this Chapter, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subsection.

e. Notwithstanding subsections. a. to d., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

5. Peak Discharge.

a. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions for the two-year, 24-hour design storm and the 100-year, 24-hour design storm applicable to the post-construction site. For large tributary areas a critical duration analysis may be required. Pre-development conditions shall assume “good hydrologic conditions” for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

Table 1 – Maximum Pre-Development Runoff Curve Numbers for Cropland Areas

Hydrologic Soil Group	A	B	C	C
Runoff Curve Number	56	70	79	83

- b. All developments shall be subject to and in compliance with the following Base Level Standards for discharge rates.
- (1) The 100-year post-development peak runoff discharge shall not exceed the most restrictive of the following standards:
 - (a) 0.30 cubic feet per second (cfs) per developed acre, or
 - (b) Maximum hydraulic capacity of existing downstream conveyance facilities as determined by the Village.
 - (2) The post-development runoff discharges for storms up to and including the 2-year storms shall not exceed 0.04 cfs per developed acre.
 - (3) The hydrologic and hydraulic analyses for evaluating pre- and post-development runoff characteristics shall utilize the precipitation frequency information developed by the National Oceanic and Atmospheric Administration (NOAA) and endorsed by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). Stormwater models shall utilize the SEWRPC 2006 rainfall distribution or the NRCS distribution appropriate to NOAA Atlas 14.

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- (4) Storm water runoff from areas tributary to the site shall be considered in the equations for the design of the project site's drainage system.
6. Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subsections e. through h.
 - a. For residential developments one of the following shall be met:
 - (1) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - (2) Infiltrate 25% of the post-development runoff from the two-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - b. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:
 - (1) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - (2) Infiltrate 10% of the runoff from the two-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - c. Pre-development condition shall be the same as in subsection. 5.
 - d. Before infiltrating runoff, pretreatment 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 pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection h. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
 - e. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this subsection:
 - (1) Areas associated with tier 1 industrial facilities identified in Wis. Admin. Code s. NR 216.21(2)(a), including storage, loading, rooftop and parking.

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- (2) Storage and loading areas of tier 2 industrial facilities identified in Wis. Admin. Code s. NR 216.21(2)(b).
 - (3) Fueling and vehicle maintenance areas.
 - (4) Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
 - (5) Areas with less than three feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subsection e.(5) does not prohibit infiltration of roof runoff.
 - (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 Wis. Admin. Code ch. NR 811.12, or within 100 feet of a private well as specified in Wis. Admin. Code s. NR 812.08(4), 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 Wis. Admin. Code s. NR 720.03(2) are present in the soil through which infiltration will occur.
 - (9) Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three-foot soil layer with 20% fines or greater; or at least a five-foot soil layer with 10% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subsection e(9) does not prohibit infiltration of roof runoff.
- f. Exemptions. The following are not required to meet the requirements of this section:
- (1) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - (2) Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 - (3) Redevelopment post-construction sites.
 - (4) In-fill development areas less than five acres.
 - (5) Infiltration areas during periods when the soil on the site is frozen.
 - (6) Roads in commercial, industrial and institutional land uses, and arterial residential roads.
- g. 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.

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- h. (1) 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 Wis. Admin. Code ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
- (2) Notwithstanding subsection (1), the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

7. Protective Areas.

- a. "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, such that runoff cannot enter the enclosure at this location.
 - (1) For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code s. NR 103.04, 75 feet.
 - (2) For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
 - (3) For lakes, 50 feet.
 - (4) For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Wis. Admin. Code s. NR 103.08(1m). This section does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
 - (5) 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.
 - (6) In subsections a.(1), (4) and (5), 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 Wis. Admin. Code s. NR 103.03.
 - (7) For concentrated flow channels with drainage areas greater than 130

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acres, 10 feet.

- b. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection d.
- c. The following requirements shall be met:
 - (1) Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 - (2) Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. 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.
 - (3) Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.
- d. This section does not apply to:
 - (1) 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. Stat. s. 59.692(1v).
 - (5) Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- 8. **Fueling and Vehicle Maintenance Areas.** Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.
- 9. **Site Drainage.** Measures shall be implemented to ensure proper site drainage, prevent property damage and protect public health and safety, and include the following minimum requirements:
 - a. **Drainage easement.** Perpetual drainage easements or other deed restrictions shall be recorded on the property to preserve major storm water flow paths and permanent storm water BMP locations. Covenants in these areas shall not allow buildings or other structures and shall prevent any grading, filling or other activities that interrupt or obstruct flows in any way. Covenants shall also specify maintenance responsibilities and authorities in accordance with section 32-10.

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- b. Site grading. Site grading shall ensure positive flows away from all buildings, be coordinated with the general storm water drainage patterns for the area, and minimize adverse impacts on adjacent properties.
- c. Street drainage. All street drainage shall be designed to prevent concentrated flows from crossing the traffic lanes to the maximum extent practicable. Design flow depths at the road centerline for on-street drainage, shall not exceed six inches during the peak flows generated by the 100-year, 24-hour design storm, using planned land use conditions for the entire contributing watershed area.
- d. Bridges and cross-culverts. All new or modified bridges and cross-culverts shall comply with applicable design standards and regulations, facilitate fish passage and prevent increased flooding or channel erosion upstream or downstream from the structure. Design flow depths at the road centerline for all crossings shall not exceed six inches during the peak flows generated by the 100-year, 24-hour design storm, using planned land use conditions for the entire contributing watershed area. All predevelopment runoff storage areas within the flow path upstream of bridges and cross-culverts shall be preserved and designated as drainage easements, unless compensatory storage is provided and accounted for in modeling.
- e. Subsurface drainage requirements.
 - (1) Basement floor surfaces shall be built one foot above the seasonal high water table elevation, as documented in the submitted soil evaluations, and shall avoid hydric soils as much as possible.
 - (2) A subsurface drainage investigation shall be required if the Village Engineer determines that agricultural subsurface drainage systems may be present on a proposed development site subject to this article. The subsurface drainage investigation shall be conducted as specified in Chapter 30, Land Division, of this Municipal Code.
- f. Open channels. All open channel drainage systems shall at a minimum be designed to carry the peak flows from a ten-year, 24-hour design storm using planned land use for the entire contributing watershed area. Side slopes shall be no steeper than 4h:1v unless otherwise approved by the Village Engineer for unique site conditions. Open channels that carry runoff from more than 130 acres shall at a minimum be designed to carry the peak flows from a 25-year, 24-hour design storm.
- g. Storm sewers. All storm sewers shall be designed as follows and in accordance with Chapter 30, Land Division, of this Municipal Code.
 - (1) Storm sewers shall be designed in accordance with the Wisconsin DOT Facilities design manual. Storm sewers shall be designed to flow full, using Manning's Formula with an appropriate roughness coefficient based on pipe material. If a storm sewer is designed with a constantly submerged outfall, the sewer shall be designed using the "hydraulic gradient" with the maximum allowable water level an elevation one foot below centerline of pavement.
 - (2) The rational method shall be employed when computing storm runoff. The storm system shall be designed with "positive street and swale drainage" such that storm water runoff will be directed overland to the

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storm water detention area in a manner to minimize property damage due to flooding.

- (3) Storm sewers shall be designed for a minimum ten-year storm event flowing full. The pipes shall be sloped to achieve the minimum three feet per section (fps) self-cleaning velocity and have a maximum velocity not exceeding twelve fps.
- (4) In areas where curb and gutter and storm sewers are required, inlets shall be installed so that the drainage reach for each inlet shall not exceed 400 feet. Where the inlet is located at a low point, additional inlets may be required by the Village Engineer. No more than two inlets shall be interconnected. Inlets shall be so located that storm water runoff will not "pond" greater than the top of the street curbs. Depressed street crowns to facilitate drainage will not be permitted.
- (5) Rear lot drainage should not drain along the side yard, over the sidewalk and curb. Rear yard inlets shall be placed where approved or as required by the Village Engineer.
- (6) The minimum size storm sewer or inlet connection shall be twelve inches in diameter.
- (7) Connections to sanitary sewers or existing agricultural drainage systems (tiles) will not be permitted for any new developments. All developments will utilize separate drainage systems to avoid disruption or overloading of the existing agricultural tile drainage system. Any field tile systems cut during the process of land development must be reconnected. Connection of existing agricultural drain tiles to new storm water management systems may be approved if proper allowance for flows from said tiles is incorporated in the new design system.

h. Structure protection and safety. Flows generated by the 100-year, 24-hour design storm under planned land use conditions may exceed the design capacity of conveyance systems, but shall not come in contact with any buildings. For buildings designed for human occupation on a regular basis, the following additional requirements shall apply:

- (1) The lowest elevation of the structure that is exposed to the ground surface shall be a minimum of one foot above the maximum water elevation produced by the 100-year, 24 hour design storm, including flows through any storm water BMP that may temporarily or permanently store water at a depth of greater than one foot; and
- (2) The structure shall be set back at least 50 feet from any storm water BMP that may temporarily or permanently store water at a depth of greater than one foot. Setback distance shall be measured from the closest edge of water at the elevation produced by the 100-year, 24-hour design storm.

D. General Considerations for On-site and Off-site Storm Water Management Measures. The following considerations shall be observed in managing runoff:

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

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2. Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
 3. Specific design standards for detention pond design.
 4. Specific design criteria.
- E. Location and Regional Treatment Option.
1. The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
 2. Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this Chapter. Post-construction BMPs may be located in nonnavigable surface waters.
 3. Except as allowed under subsection 4., post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
 4. Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this Chapter if:
 - a. The BMP was constructed prior to the effective date of this Chapter and the BMP either received a permit issued under Wis. Stat. ch. 30 or the BMP did not require a Wis. Stat. ch. 30 permit; and
 - b. The BMP is designed to provide runoff treatment from future upland development.
 5. Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this section.
 - a. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
 - b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as Wis. Admin. Code ch. NR 103 and Wis. Stat. ch. 30.
 6. The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.
 7. The Zoning Administrator may approve off-site management measures provided that all of the following conditions are met:
 - a. The Zoning Administrator determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Village of Rochester and that contains management requirements consistent with the purpose and intent of this Chapter.
 - b. The off-site facility meets all of the following conditions:
 - (1) The facility is in place.

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- (2) The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this Chapter.
 - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
 - 8. Where a regional treatment option exists such that the Zoning Administrator exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Zoning Administrator. In determining the fee for post-construction runoff, the Zoning Administrator shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- F. Alternate Requirements. The Zoning Administrator may establish storm water management requirements more stringent than those set forth in this section if the Zoning Administrator determines that an added level of protection is needed to protect sensitive resources.

32-8. PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

- A. Permit Required. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Zoning Administrator prior to commencing the proposed activity.
- B. Permit Application and Fees. Unless specifically excluded by this Chapter, any responsible party desiring a permit shall submit to the Zoning Administrator a permit application made on a form provided by the Zoning Administrator for that purpose.
 - 1. Unless otherwise excepted by this Chapter, a permit application must be accompanied by a storm water management plan, erosion control plan, storm-water calculations, a maintenance agreement and a non-refundable permit administration fee in an amount set by the Village Board as shown in the Fee Schedule.
 - 2. The storm water management plan shall be prepared to meet the requirements of ss. 32-7 and 32-9, the maintenance agreement shall be prepared to meet the requirements of s. 32-10, the financial guarantee shall meet the requirements of s. 32-11, and fees shall be those established by the Village Board as set forth in s. 32-30.
- C. Review and Approval of Permit Application. The Zoning Administrator shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
 - 1. Within 30 business days of the receipt of a complete permit application, including all items as required by subsection B., the Zoning Administrator shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this Chapter.
 - 2. If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Zoning Administrator shall issue the permit.
 - 3. If the storm water permit application, plan or maintenance agreement is disapproved, the Zoning Administrator shall detail in writing the reasons for disapproval.

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4. The Zoning Administrator may request additional information from the applicant. If additional information is submitted, the Zoning Administrator shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 5. Failure by the Zoning Administrator to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- D. Permit Requirements. All permits issued under this Chapter shall be subject to the following conditions, and holders of permits issued under this Chapter shall be deemed to have accepted these conditions. The Zoning Administrator may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Zoning Administrator to suspend or revoke this permit may be appealed in accordance with s. 32-31.
1. Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 2. The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
 3. The responsible party shall notify the Zoning Administrator at least five business days before commencing any work in conjunction with the stormwater management plan, and within five business days upon completion of the stormwater management practices. If required as a special condition under subsection E., the responsible party shall make additional notification according to a schedule set forth by the Zoning Administrator so that practice installations can be inspected during construction.
 4. Practice installations required as part of this Chapter shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Zoning Administrator or its designee to determine if they are in accordance with the approved storm water management plan and this Chapter. The Zoning Administrator or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
 5. The responsible party shall notify the Zoning Administrator of any significant modifications it intends to make to an approved storm water management plan. The Zoning Administrator may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
 6. The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Village Board, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
 7. The responsible party authorizes the Zoning Administrator to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or special charge against the property as authorized under Wis. Stat. ch. 66 or to charging such costs against the financial guarantee posted under s. 32-11.
 8. If so directed by the Zoning Administrator, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage

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ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.

9. The responsible party shall permit property access to the Zoning Administrator or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 10. Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Zoning Administrator may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
 11. The responsible party is subject to the enforcement actions and penalties detailed in s. 32-12 and 32-50 if the responsible party fails to comply with the terms of this permit.
- E. Permit Conditions. Permits issued under this Chapter may include conditions established by the Zoning Administrator in addition to the requirements needed to meet the performance standards in s. 32-7 or a financial guarantee as provided for in s. 32-11.
- F. Permit Duration. Permits issued under this Chapter shall be valid from the date of issuance through the date the Zoning Administrator notifies the responsible party that all storm water management practices have passed the final inspection required under subsection D.4.

32-9. STORM WATER MANAGEMENT PLAN.

- A. PLAN REQUIREMENTS. The storm water management plan required under s. 32-8B shall contain 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 storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
 2. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
 3. Pre-development site conditions, including:
 - a. One or more site maps at a scale of not less than one inch equals 50 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed two feet; topography and drainage network including contiguous properties extending at least 50-feet beyond the site boundary to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to Wis. Admin. Code s. NR 811.12.
 - b. Hydrology and pollutant loading computations as needed to show compliance

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with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

4. Post-development site conditions, including:
 - a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 - b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and laws and ordinances.
 - c. One or more site maps at a scale of not less than one inch equals 50 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed two feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 - d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 - e. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
5. A description and installation schedule for the storm water management practices needed to meet the performance standards in 32-7.
6. A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
7. Cost estimates for the construction, operation, and maintenance of each storm water management practice.
8. Other information requested in writing by the Zoning Administrator to determine compliance of the proposed storm water management measures with the provisions of this Chapter.
9. All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this Chapter.

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- B. Alternate Requirements. The Zoning Administrator may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 32-7E.

32-10. MAINTENANCE AGREEMENT.

- A. Maintenance Agreement Required. The maintenance agreement required under s. 32-8B. for storm water management practices shall be an agreement between the Zoning Administrator and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the Racine County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
- B. Agreement Provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by s. 32-9A.6.:
 - 1. Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - 2. A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under s. 32-8B.
 - 3. Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under s. 32-8B.
 - 4. Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in subsection 2.
 - 5. Authorization for the Zoning Administrator to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - 6. A requirement on the Zoning Administrator to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
 - 7. Agreement that the party designated under subsection 3. as responsible for long term maintenance of the storm water management practices, shall be notified by the Zoning Administrator of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Zoning Administrator.
 - 8. Authorization of the Zoning Administrator to perform the corrected actions identified in the inspection report if the responsible party designated under subsection 3. does not make the required corrections in the specified time period. The Zoning Administrator shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stat. ch. 66.

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32-11. FINANCIAL GUARANTEE.

- A. Establishment of the Guarantee. The Zoning Administrator may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Zoning Administrator. The financial guarantee shall be in an amount determined by the Zoning Administrator to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Zoning Administrator the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the Zoning Administrator that the requirements of this Chapter have not been met.
- B. Conditions for Release. Conditions for the release of the financial guarantee are as follows:
 - 1. The Zoning Administrator shall release the portion of the financial guarantee established under this section, less any costs incurred by the Zoning Administrator to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Zoning Administrator may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - 2. The Zoning Administrator shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Zoning Administrator, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

32-12. ENFORCEMENT.

- A. Any land disturbing construction activity or post-construction runoff initiated after the effective date of this Chapter by any person, firm, association, or corporation subject to the Chapter provisions shall be deemed a violation unless conducted in accordance with the requirements of this Chapter.
- B. The Zoning Administrator shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- C. Upon receipt of written notification from the Zoning Administrator under subsection B., the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Zoning Administrator in the notice.
- D. If the violations to a permit issued pursuant to this Chapter are likely to result in damage to properties, public facilities, or waters of the state, the Zoning Administrator may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Zoning Administrator plus interest and legal costs shall be billed to the responsible party.
- E. The Zoning Administrator is authorized to post a stop work order on all land disturbing construction activity that is in violation of this Chapter, or to request the village attorney to obtain a cease and desist order in any court with jurisdiction.
- F. The Zoning Administrator may revoke a permit issued under this Chapter for non-compliance with

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Chapter provisions.

- G. Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Zoning Administrator or by a court with jurisdiction.
- H. The Zoning Administrator is authorized to refer any violation of this Chapter, or of a stop work order or cease and desist order issued pursuant to this Chapter, to the village attorney for the commencement of further legal proceedings in any court with jurisdiction.
- I. When the Zoning Administrator determines that the holder of a permit issued pursuant to this Chapter has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the Zoning Administrator or a party designated by the Zoning Administrator may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Zoning Administrator shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to s. 32-11 of this Chapter. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

32-20. POND REGULATIONS.

- A. **Permit Required.** No person shall construct or make improvements to any pond located in the Village of Rochester without first obtaining site plan and zoning permit approval from the Village Plan Commission and Village Board. Except as set forth below, these provisions apply to all ponds including, but not limited to, those ponds utilized for drainage, recreation, aesthetics, sediment control, and fish management. Ponds to be constructed in the shoreland and floodplain areas remain subject to the shoreland, wetland and floodplain provisions of this Municipal Code which may limit such construction and will require conditional use permits. Prior to issuance of a pond permit, the Zoning Administrator will evaluate the application to determine whether the Construction Site Erosion Control provisions in Chapter 31 of this Municipal Code, or the Postconstruction Stormwater Drainage provisions of this Chapter, apply, and if so, the applicant shall be required to follow those provisions.
- B. **Exceptions.** The following ponds are excluded from the provisions of this section: ponds with a depth of less than 24 inches, ponds with a diameter less than 16 feet or an area less than 200 square feet, storm water drainage ponds created by or for a drainage utility district, and ponds which have been previously reviewed and approved as part of a Post Construction Erosion Control Plan. Existing ponds are also excluded from the provisions of this section, but any enlargement, dredging or modifications to such a pond requires site plan and zoning permit approval from the Village Plan Commission and Village Board.
- C. **Site Plan Requirements.** Before a zoning permit may be issued, the applicant shall provide the Village with a detailed site plan of the proposed pond excavation showing cross-sections, depth, area, safety ledges, proposed elevations of the pond and slopes tied into mean sea level datum, dimensions of the pond, location of the pond from existing property lines, and addressing the disposition and storage of spoils from the excavation, and the timetable for the starting and completing the pond.
- D. **Standards for Pond Construction.**
 - 1. **Technical Requirements.** Side slopes shall not exceed 4:1 or flatter ratio. The boundaries of the pond, as shown on the approved site plan shall be setback a minimum of 30 feet from all property lines. In addition, ponds shall be constructed in conformance

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with the standards of the soil conservation Service Technical Guide and where applicable the Wet Detention Basin of the Wisconsin Department of Natural Resources Conservation Practices Standards.

2. Excavated material. All excavated material shall remain on site and shall be integrated into the restoration of the pond area. No excavated material from the project site shall be sold, given away, or otherwise removed from the site in a manner in which the principal use of the property appears to be soil removal, and pond construction appears to be a secondary result, unless the applicant rezones the property to M-4, Quarry District and obtains conditional use approval from the Village Plan Commission and Village Board.
- E. Conditions to Permit. The Village Plan Commission and Village Board may attach conditions to the issuance of the pond permit to address such things (without limitation) as maintenance, weed control, depth of pond, landscaping and aesthetics and measures to secure the pond to avoid personal injury to frequenters, invitees, or trespassers. Other conditions appropriate to the area under consideration may be added to permit by the Village Board, after consultation with the Village Engineer, Zoning Administrator or Public Works Supervisor.
- F. Additional Permits. Prior to the construction pond the applicant is responsible for obtaining all necessary pertinent permits from county, state, and federal government agencies.
- G. Permit Fee. No permit will be issued until the applicant has paid a Permit Fee in an amount set by the Village Board and set forth in the Village of Rochester Fee Schedule.
- H. Abatement.
1. Notice to owner. In the event that any person shall construct or make improvements to any pond located in the Village of Rochester without first obtaining a site plan approval and zoning permit as required herein or who shall construct or make improvements to any pond located in the Village of Rochester, contrary to this Section, the Village may serve notice on the person causing, permitting, or maintaining such a violation and upon the owner or the occupant of the premises on which such a violation is caused, permitted, or maintained and to post a copy of said notice on the premises. Such notice shall direct that the person causing, permitting or maintaining such a violation or the owner or the occupant of the premises to abate or remove each such violation or to obtain the necessary permits required hereby within seven days from the date of posting and shall state that unless such action is taken, the Village will cause the same to be abated, removed or otherwise brought into compliance and will charge the costs thereof to the owner, occupant, or person causing permitting or maintaining the violation, as the case may be.
 2. Abatement or restoration by the Village. If the action required by the notice issued pursuant to this Section is not taken within the time provided or if the owner, occupant or person causing, permitting or maintaining the violation cannot be found, the Village shall cause the abatement or removal of the violation, and if necessary to bring the premises into compliance, the Village shall take action to restore the property to a state consistent with the conditions of the property prior to the construction of the pond or the improvements made to the pond which were made in violation of this Section.
 3. Cost of Abatement or Restoration. In addition to any other penalty imposed for a violation of this Section, the cost of abating a violation of this Section by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the violation, and if notice to abate and/or remedy the violation has been given to the owner, or in case of emergency, such costs shall be assessed against the real estate as a special charge.

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32-30. FEE SCHEDULE.

The fees referred to in other sections of this Chapter shall be established by the Village Board and may from time to time be modified by resolution. A schedule of the fees established by the Village Board shall be available for review in the Village Clerk's office.

32-31. APPEALS.

- A. Board of Appeals. The Zoning Board of Appeals, created pursuant to Chapter 35 of the Village of Rochester Municipal Code, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Zoning Administrator in administering this Chapter. The Board of Appeals shall use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Board of Appeals may authorize variances from the provisions of this Chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the Chapter will result in unnecessary hardship.
- B. Who May Appeal. Appeals to the Board of Appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the Village of Rochester affected by any decision of the Zoning Administrator.

32-32. SEVERABILITY.

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

32-50. VIOLATIONS AND PENALTIES.

- A. Forfeitures. In addition to any other penalty set forth in this Chapter, any person who does not comply with the provisions of this Chapter, including constructing or making any improvements without obtaining the permits required under this Chapter, shall be subject to a forfeiture in an amount set forth in Chapter 50 of this Municipal Code per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- B. Injunctions. Compliance with the provisions of this Chapter may also be enforced by injunction in any court with jurisdiction. This remedy is in addition to all other remedies set forth in this Chapter. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

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