

CHAPTER 29

POST CONSTRUCTION STORM WATER MANAGEMENT

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29.01 AUTHORITY.

(1) This chapter is adopted by La Crosse County Board of Supervisors under the authority granted by s. 59.693(2), Wis. Stats.

(2) The County Board hereby designates the La Crosse County Department of Land Conservation to administer and enforce the provisions of this chapter.

(3) The requirements of this chapter do not preempt more stringent storm water management requirements that may be imposed by any of the following:

(a) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.

(b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under NR 151.004, Wisconsin Administrative Code.

29.02 FINDINGS OF FACT

(1) Uncontrolled storm water from post-construction runoff has a significant adverse impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources.

(2) The La Crosse County Board of Supervisors finds that effective storm water management depends on proper planning, design, and timely installation of conservation and management practices and their continuing maintenance.

29.03 PURPOSE. The purpose of this chapter is to establish long-term, storm water runoff management minimum requirements that will diminish the threats to public health, safety, public and private property and the aquatic environment. Specific purposes include:

- (1) Preventing excessive channel erosion;
- (2) Minimizing water pollution from storm water runoff;
- (3) Protecting cold water stream habitats from increases in water temperature;
- (4) Protecting natural water courses and wetlands by promoting infiltration and groundwater recharge; and,
- (5) Protecting public and private property from damage resulting from storm water runoff.

29.04 DEFINITIONS. In this chapter:

(1) "Affected" means that a regulated activity has significantly: (a) caused negative impacts on water quality or the use or maintenance of land or business; or (b) endangered health, safety, or general welfare.

(2) "Agricultural development" means the construction of agricultural buildings, facilities or other disturbances outside of agricultural land use.

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- (3) “Agricultural land use” means use of land for planting, growing, cultivating, and harvesting of crops for human or livestock consumption and pasturing.
- (4) “Average annual rainfall” means a typical calendar year of precipitation, excluding snow, as defined by the NR Chapter 151, or any amendments thereto.
- (5) “Bank erosion” means the removal of soil or rock fragments along the banks or bed of a stream channel resulting from high flow after runoff events.
- (6) “Best management practices” or “BMPs” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff.
- (7) “Connected imperviousness” means an impervious surface connected to the waters of the state via a separate storm sewer or an impervious flow path.
- (8) “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. See the definition contained in NR 102, Wisconsin Administrative Code.
- (9) “Common plan of development” means all lands included within the boundary of a certified survey map or subdivision or condominium plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.
- (10) “Department” means La Crosse County Department of Land Conservation.
- (11) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (12) “Direct conduits to groundwater” 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, wells, and bore holes.
- (13) “Drainage System” means the overall storm water conveyance system including designed and natural drainage patterns contained within a defined area.
- (14) “DNR” means Wisconsin Department of Natural Resources.
- (15) “Effective infiltration area” means the wetted area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (16) “Erosion” means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (17) “Exceptional Resource Waters” (ERW’s) means waters listed in s. NR 102.11, Wisconsin Administrative Code. All Class I streams are ERW’s.
- (18) “Exemption” means that a certain standard or practice is not required under the set conditions but may be implemented if so chosen.

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(19) “Existing development” means development in existence on October 1, 2004 or development for which a notice of intent was received by the DNR or the Wisconsin Department of Commerce on or before October 1, 2004.

(20) “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 that employ equivalent permanent stabilization measures.

(21) “Financial guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantee submitted to the Department by the responsible party to assure that requirements of this chapter are carried out in compliance with the storm water management plan.

(22) “Highway” has the meaning given in s. 340.01(22), Wis. Stats.

(23) “Illicit discharge” means any discharge to a municipal separate storm sewer that is not composed entirely of runoff, except discharges authorized by a Wisconsin Pollutant Discharge Elimination System permit or any other discharge not requiring a Wisconsin Pollutant Discharge Elimination System permit such as water line flushing, landscape irrigation, individual residential car washing, fire fighting and similar discharges.

(24) “Illicit connection” means any drain or conveyance, whether on the surface or subsurface, which allows an illegal non-storm water discharge to enter the storm drain system, including but not limited to: sewage, process wastewater and wash water, any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency prior to the adoption of this chapter.

(25) “Impaired water” means a water body impaired in whole or in part and listed by the Environment Protection Agency pursuant to 33 USC 1313 (d)(1)(A) and 40 CFR 130.7, for not meeting a water quality standard, including a water quality standard for a specific substance or the water body’s designated use.

(26) “Impervious surface” means any land cover that prevents rain or melting snow from soaking into the ground. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. For purposes of this chapter, typical gravel driveways, non-pervious pavers and other examples listed shall be considered impervious unless specifically designed to encourage infiltration or storage of runoff and approved by the local approval authority.

(27) “In-fill area” means an undeveloped area of land located within existing development or within existing development and natural or man-made features where development cannot occur. The in-fill area must have been in existence on October 1, 2004, or must not have been part of a notice of intent that was received by the DNR or the Wisconsin Department of Commerce.

(28) “Infiltration” means the entry and movement of precipitation or runoff into or through the soil. For the purposes of this chapter, it includes precipitation that does not leave the site as surface runoff.

(29) “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 lawns, redirecting of rooftop downspouts onto lawns or infiltration occurring in swales or road side ditches designed for conveyance and pollutant removal only.

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(30) “Intermittent stream” means a natural stream or portion of a natural stream that has a defined bed and defined banks within which water flows in response to precipitation, through near surface groundwater flow, or from springs, and which is not a perennial stream.

(31) “Land disturbing construction activity” means any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, construction of all agricultural and non-agricultural buildings, roads, parking lots and similar facilities, but does not include agricultural land uses.

(32) “Land development activity” or “land development” means any construction-related activity that may ultimately result in the addition of impervious surfaces, such as the construction of buildings, roads, parking lots and other structures.

(33) “Land user” means any person who uses the land as an owner, operator, lessor, renter or occupier, who is providing a service that requires access or alterations of the land in order to perform the service, including any person or persons, firm, company or corporation performing work at a site.

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

(35) “MEP” or "maximum extent practicable" 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 the performance standards and may vary based on the performance standard and site conditions.

(36) “Minor reconstruction of a highway" means highway reconstruction that is limited to 1.5 miles in continuous or aggregate total length of realignment that does not exceed 100 feet in width of roadbed widening and that does not include replacement of a vegetated drainage system with a non-vegetated drainage system except where necessary to convey runoff under a highway or private road or driveway. A reconstruction of a highway project that will convert an open drainage system into a curb and gutter drainage system does not qualify as minor reconstruction of a highway.

(37) “New development” means any of the following activities:

- (a) Structural development, including construction of a new building or other structures;
- (b) Expansion or alteration of an existing structure that results in an increase in the surface dimensions of the building or structure;
- (c) Land-disturbing activities; or
- (d) Creation or expansion of impervious surface.

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

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

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(40) “Ordinary high-water mark (OHWM)” has the meaning given in NR 115, Wisconsin Administrative Code.

(41) “Outstanding resource waters” means waters listed in NR 102, Wisconsin Administrative Code.

(42) “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.

(43) “Percent fines” means the percentage of a given sample of soil, which passes through a #200 sieve. Percent fines can be determined using the “American Society for Testing and Materials”, Volume 04.02, “Test Method C117-95 Standard Test Method for Materials Finer than 75- μ m (No. 200) Sieve in Material Aggregates by Washing”. Copies can be obtained by contacting the American Society for Testing and Materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832- 9585, or on line at: “<http://www.astm.org/>”.

(44) “Perennial stream” means any stream that is depicted as a continuous blue line on the most recent United States Geological Survey 7.5 minute topographic quadrangle maps (scale 1:24,000) or which is determined by the DNR, La Crosse County Zoning Administrator, or the Director of La Crosse County Department of Land Conservation following a site-specific evaluation. This definition shall not apply to streams within a development area or area of infill and redevelopment that have been piped or converted legally and intentionally into storm water conveyance channels such that the stream does not resemble or maintain the characteristics of a natural stream channel, as determined by the Department.

(45) “Permit” means a written authorization issued by the Department to the applicant to conduct land disturbing construction activity or to discharge post–construction runoff to waters of the state.

(46) “Pervious surface” means any land cover that permits rain or melting snow to soak into the ground.

(47) “Prohibition” means that a standard or a practice is not allowed under a set condition or conditions.

(48) “Protective area” means the same as a “Water Quality Management Area”.

(49) “Pollutant” means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water as provided in s. 283.01, Wis. Stats.

(50) “Pollution” means man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water as provided in s. 283.01, Wis. Stats.

(51) “Post-development” refers to the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan.

(52) “Pre-development” means conditions that existed prior to the initiation of land disturbing activities in regard to the extent and distribution of land cover types present, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

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(53) “Preliminary plat” means a map showing the salient features of a proposed condominium or subdivision submitted to the Planning Resource & Development Committee for purposes of preliminary consideration.

(54) “Preventive action limit” has the meaning given in NR 140.06, Wisconsin Administrative Code.

(55) “Protective areas” means the same areas and setbacks as defined in NR 151.12, Wisconsin Administrative Code.

(56) “Publicly funded” means a land development, such as a public road or municipal building, that is being funded solely by a unit of government. It does not include new roads or other structures built with private funds, or a combination of public and private funds, and subsequently dedicated to a unit of government.

(57) “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.

(58) “Redevelopment” means areas where development is replacing older development.

(59) “Responsible party” means any person or entity holding fee title to the property or acting as the owner’s representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMPs and other approved elements of storm water plans and permits under this ordinance. The responsibility of an owner’s representative concludes upon completion of the representative’s contractual obligations with the owner.

(60) “Runoff” means storm water or precipitation including rain, snow, or ice melt or similar water that moves on the land surface.

(61) “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 all of the following criteria:

- (a) Is designed or used for collecting or conveying runoff;
- (b) Is not part of a combined sewer system;
- (c) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment; and,
- (d) Discharges directly or indirectly to waters of the state.

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

(63) “Steep slopes” for the purpose of this chapter only, means naturally occurring areas with slopes 25 percent or steeper comprising a contiguous area of 4000 square feet or more.

(64) “Stop work order” means an order issued by La Crosse County which requires that all construction activity on the site be stopped.

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(65) “Storm water” means the flow of water which results from, and which occurs during and immediately following, a rainfall, snow, or ice melt event.

(66) “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.

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

(68) “Total maximum daily load” (TMDL) means the amount of pollutants specified as a function of 1 or more water quality parameters that can be discharged per day into a water quality limited segment and still insure attainment of the applicable water quality standard. There are 4 components to the total maximum daily load: point source allocation, non-point source allocation, reserve capacity and margin of safety.

(69) “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 of the purposes of this ordinance.

(70) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats. which states that waters of the state includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

(71) “Water Quality Management Area” means:

(a) Area within 1,000 feet of the ordinary high water mark of navigable waters that consist of a lake, pond or flowage.

(b) Area within 300 feet of the ordinary high water mark of the navigable waters of a river or stream.

(c) Area with potential to be direct conduits for groundwater contamination.

(d) Area of direct runoff from animal waste to surface water.

(72) “WPDES permit” means a Wisconsin pollutant discharge elimination system permit issued under Chapter 283 of the Wisconsin Statutes.

29.05 APPLICABILITY.

(1) General Requirements/Restrictions Applicable to All Sites.

(a) No new development shall be allowed to discharge subsurface drainage directly from sump pumps or foundation tiles onto another person’s land without the written approval of the owner or onto any public space without the written approval of the governmental unit impacted. Such discharges shall not create erosion or flooding on another person’s land or any public space.

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(b) No new development shall be allowed to discharge surface drainage directly from impervious areas onto another person's land or any public space without the written approval of the owner or unit of government. Such discharges shall not create erosion or flooding on another person's land or any public space.

(c) Natural drainage ways shall not be obstructed or reconstructed as to cause inundation or flooding of adjacent properties.

(2) Sites Requiring Storm Water Permits. Unless otherwise exempt under s. 29.06, a storm water permit shall be required and all storm water provisions of this chapter shall apply to proposed land development activity on lands within the unincorporated areas of La Crosse County that meet any of the following:

(a) Development that results in a cumulative addition of .5 acres (21,780 square feet) of impervious surface to the site as of the implementation date of this ordinance;

(b) Any agricultural development that creates new impervious surface areas exceeding .5 acres on the site within a water quality management area;

(c) A subdivision plat;

(d) A certified survey map or any other land development activity that may ultimately result in the addition of .5 acres or more of impervious surfaces, including smaller individual sites that are part of a common plan of development that may be constructed at different times;

(e) The private development of a road that will become public; or

(f) Any site involving 1 acre or more of land disturbing activity.

(3) Specific Requirements for Sensitive Sites. The following sites may not require a storm water permit:

(a) Non-Municipal Stock-piling of off-site snow. Utilizing property for the primary purpose of storing off-site snow shall require a temporary storm water plan. A site plan shall be submitted for review. After the review, if the supporting information indicates that there is no threat of damage to adjoining properties or to water quality, a temporary storm water plan shall be conditionally approved. The following information shall be included on the plan:

1. Location and approximate quantities in snow piles;
2. Drainage patterns on-site;
3. Areas on site that will provide runoff storage;
4. Receiving water; and,
5. Water quality management area, if applicable.

(b) Development of Steep Slopes. Due to the increased risk from storm water runoff, owners of sites requiring an erosion control permit from the County that will be disturbing slopes in excess of 25% shall submit a plan indicating existing and proposed contours at a minimum of 5 foot contour intervals. Additional information may be requested, including control of post-construction runoff.

29.06 EXEMPTIONS AND PROHIBITIONS.

(1) The following activities are exempt from all requirements of this ordinance:

(a) Any activity directly related to the planting, growing and harvesting of agricultural crops.

(b) Land development and land disturbing activities exempted by state or federal law, including highway construction and other projects conducted by a state agency.

(c) Municipal road or county highway projects where all of the following conditions are met:

1. All activity takes place within an existing public right-of-way;
2. The project does not include the addition of new driving lanes;
3. The project does not replace an open channel with a pipe except where needed under a driveway or road; and,
4. Less than one acre of land disturbance occurs.

(d) Land disturbing activity directly involved in the installation and maintenance of private on-site waste disposal systems.

(e) Underground utility construction such as water, sewer and fiber optic lines.

(f) A project that is designed and/or certified by the La Crosse County Department of Land Conservation or the Natural Resource Conservation Service as part of a soil conservation or water pollution control project.

(2) The following sites shall comply with all of the requirements of this chapter, including submittal of a plan to the Department, but shall be exempted from obtaining a permit, providing a bond or paying a fee under this chapter:

(a) Land disturbance activity by the County or any town within the County. Other federal, state, and local permits may be required.

(b) Nonmetallic mining sites that have been issued a permit and have paid fees under Chapter 27 of the La Crosse County Code of Ordinances.

(3) Runoff Rate Control Exemptions. Sections 29.09(1)(b)1.a, b, and c of this chapter do not apply to the following, except the Application for Exemption must be completed:

(a) A post-construction site that directly discharges into the Black River, La Crosse River, Mississippi River or Lake Neshonoc provided the impervious area does not exceed 1 acre. If the final project will create more than 1 acre of impervious area, the peak storm water runoff rate from the 10 year 24 hour event shall be no more than the pre-development storm water runoff rate for a 10 year 24 hour storm event. Documentation as to the safe passage of the 100 year storm event shall be provided.

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- (b) A redevelopment post-construction site, including a transportation facility that is part of a redevelopment project.
 - (c) If redevelopment occurs on a site developed after October 1, 2004, the redevelopment site shall be required to reduce or maintain the previous development's peak runoff flow rate for the 1 year and 2 year 24 hour events.
 - (d) An in-fill development area less than 5 acres.
 - (e) A highway reconstruction or minor road reconstruction site.
 - (f) If applicant can provide documentation that the site is internally drained and will not discharge runoff from the site after development occurs.
 - (g) Areas of the post-construction site in hydrologic soil group A, if the requirements of par. (5) cannot be met, due to not being allowed to infiltrate because of very coarse sand and the potential for groundwater contamination.
 - (h) Land development with less than 10% of the site planned to be impervious and the cumulative area of all impervious areas is less than 1 acre using the final build out condition.
- (4) Water Quality - Post Construction Exemptions. If design cannot achieve the applicable total suspended solids reduction specified, an Application for Exemption must be submitted.
- (5) Infiltration Exemptions and Prohibitions.
- (a) Source Prohibitions. To protect groundwater, the runoff from the following areas shall not be infiltrated unless subdivision (g) 1. of this subsection can be met:
 - 1. Areas associated with a tier 1 industrial facility identified in NR 216.21(2)(a), including storage, loading, and parking. Rooftops may be infiltrated if approved by the Department.
 - 2. Storage and loading areas of a tier 2 industrial facility identified in NR 216.21(2)(b). Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated if approved by the Department.
 - 3. Fueling and vehicle maintenance areas. Rooftops may be infiltrated if approved by the Department.
 - (b) Infiltration Site Prohibitions. To protect groundwater, infiltration practices shall not be located in the following areas.
 - 1. Areas within 1000 feet up slope or within 100 feet down slope of direct conduits to groundwater.
 - 2. Areas within 400 feet of a community water system well as specified in NR 811.16(4) or within the separation distances listed in NR 812.08 for any private well or non-community well for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

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3. Areas where contaminants of concern, as defined in NR 720.03(2), are present in the soil through which infiltration will occur.

(c) Infiltration Site Limitations. Infiltration practices shall be located only in the following areas unless demonstrated to meet the conditions of subdivision (g)1. of this subsection.

1. Any area where the separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock exhibits the characteristics in Table 1.

Table 1 Infiltration Site Prohibitions Required Separation for Infiltration Practices	
<i>Development Type</i>	<i>Separation Distance</i>
Industrial, commercial institutional parking lots and roads and residential roads	5 feet of native soil or engineered soil
All other impervious surfaces other than rooftop	3 feet of native soil or engineered soil
Rooftop draining to subsurface infiltration practice	1 foot of native soil or engineered soil finer than coarse sand.
Rooftop draining to vegetated surface infiltration practice or lawn	No separation requirement

2. Applicable requirements for injection wells classified under NR 815 shall be followed.

3. Any area where the soil between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock exhibits the characteristics in Table 2.

Table 2 Soil Requirements for Infiltration Practices	
<i>Soil Layer Depth</i>	<i>Percent Fines</i>
3 feet minimum	20% or greater
5 feet minimum	10% or greater
Varies	Engineered soil provides equivalent level of protection.

(d) Source Area Exemptions. The following areas are not required to meet the infiltration requirement but will be credited toward meeting the requirement when runoffs from these areas are infiltrated:

1. Parking areas and access roads less than 5,000 square feet for commercial development and parking areas and access roads less than 5,000 square feet for industrial development not subject to the limitations under s. 29.06(5)(a).

2. Redevelopment post-construction sites.

3. In-fill development areas less than 5 acres.

4. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

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5. Transportation facility reconstruction and minor road reconstruction sites.
6. Highways.

(e) Infiltration Site Exemptions. For practical purposes location of infiltration practices in the areas in Table 3 will not be required but will receive credit if used.

Table 3	
Infiltration Site Exemptions Based on Soil Analysis/Testing	
<i>Soil Test Method</i>	<i>Results</i>
A scientifically credible field test method, measured at the proposed bottom of the infiltration system	Infiltration rate of the soil is less than 0.6 inches/hour
USDA method of soils analysis	The least permeable soil horizon to five feet below the proposed bottom of the infiltration system is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

(f) 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 paragraph.

(g) Minimizing Groundwater Pollution

1. Infiltration systems designed in accordance with this paragraph shall maintain compliance with the preventive action limit at a point of standards application in accordance with NR 140, Wisconsin Administrative Code. 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.

2. Notwithstanding subsection (g)1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(h) Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas in accordance with DNR technical standards.

(6) Protective Areas. This paragraph applies to post-construction sites located within a protective area, except those areas exempted as follows:

- (a) Redevelopment post-construction sites;
- (b) In-fill development areas less than 5 acres;
- (c) Structures that cross or access surface waters such as boat landings, bridges and culverts;
- (d) Structures constructed in accordance with s. 59.692(1v), Wis. Stats.; and,

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(e) Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated to the required extent by a BMP.

(7) Technical Exemption. The Planning, Resources and Development Committee may exempt a site or a portion of a site from meeting certain technical requirements of this subsection if the Department determines that 1 or more of the following applies:

(a) The requirement has been satisfied through the use of off-site BMP(s). Off-site BMPs could be installed beyond the boundaries of the property covered by the application as part of a regional storm water management plan or through other legal arrangements. However, to be eligible for this exemption, the off-site BMP(s) must treat runoff from the site covered by the application;

(b) The site is internally drained and will not discharge runoff from the site after development occurs; or

(c) It is impracticable to meet the requirement due to factors beyond the control of the applicant. No site shall be entitled to an exemption under this paragraph due solely to the size of the proposed land development activity in relation to the parcel size. However, the Department shall provide special consideration in granting exemptions under this paragraph for the following sites:

1. Redevelopment sites;
2. In-fill development areas less than 5 acres;
3. Highway projects where limited public right-of-way land is available for the installation of storm water BMPs; and,
4. Land developments with less than 10% of the site planned to be impervious surfaces and the total cumulative area of all impervious areas is less than 1 acre using the final build-out condition.

29.07 PRELIMINARY REVIEW LETTER.

(1) Purpose and Intent. A preliminary storm water review letter is prepared by the Department to ensure that early site planning for any new development accounts for compliance with this ordinance. Preliminary storm water planning provides a permit applicant with an initial simple evaluation of whether storm water control standards can be met for a proposed site, lot layout, or construction design. A preliminary review letter does not guarantee that a storm water control plan will be approved or that a permit will be issued. Storm water control plans and permit applications must meet all applicable standards and criteria for approval.

(2) Applicability.

(a) A person may apply for a preliminary review letter by submitting a completed application and the required review fee.

(b) Sites Requiring a Preliminary Review Letter:

1. The proposal is a commercial development involving one or more acres of land disturbance;

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2. Commercial development that will increase the impervious area by .5 acres or more;
3. Slopes in excess of 20% will be disturbed during the development of a proposed subdivision or condominium plat;
4. The proposal involves disturbance of, or direct discharge to a water quality management area or a protective area as defined in NR151.12(5)(d); or,
5. Development of Certified Survey Map's (CSM) that will potentially increase impervious area by .5 acres or more.

(3) Application for a Preliminary Review Letter. To obtain a preliminary review letter from the Department, the applicant shall submit a completed application, including the following:

- (a) A completed and signed application on a form provided by the Department for that purpose;
- (b) The application fee, unless exempted under s. 29.06(2);
- (c) A preliminary erosion control plan providing concepts to address requirements in the approved erosion control checklist;
- (d) A preliminary storm water management plan shall contain the same information listed under s. 29.08 with the following exceptions:
 1. No computations will be required for storm water conveyance systems, water control structures or other individual systems components;
 2. No detail drawings, cross-sections or profiles will be required unless the Department determines they are necessary to assess the general feasibility of the preliminary storm water management plan; and,
- (e) A preliminary maintenance agreement for all storm water BMP's proposed for the site.

29.08 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 standards of this chapter:

- (1) Technical standards approved by the Wisconsin Department of Natural Resources in accordance with NR 151.31.
- (2) Natural Resources Conservation Service's "Wisconsin Field Office Technical Guide, Chapter 4" or its successor.
- (3) For modeling purposes the average annual rainfall for Minneapolis, 1959 (March 13-November 4) shall be used.
- (4) Federal Highway Administration, Hydraulic Engineering Circular No. 15.

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(5) Wisconsin Department of Transportation Facilities Development Manual.

(6) Any other technical methodology approved by the Department. A proposal for alternate method with supporting documentation is to be submitted for review prior to approval.

29.09 STORM WATER MANAGEMENT PERFORMANCE STANDARDS. Proposed design, location and phased implementation of storm water management measures for plans shall be designed, engineered and implemented to achieve the following results:

(1) Runoff Control.

(a) All designed storm water facilities shall safely pass the 100-year, 24-hour design storm.

(b) Runoff Control Design Standards. To minimize downstream bank erosion and the failure of downstream conveyance systems, designs shall provide for BMP's to achieve the following:

1. Flow Rate. By design, the post-developed peak runoff rates must be maintained or reduced from the pre-developed rates for the following:

- a. 1-year;
- b. 2-year;
- c. 5-year;
- d. 10-year; and.
- e. 25-year 24 hour storm events.

2. All existing runoff entering the project site must be included in the design of the drainage system or safely passed.

3. Altering flow from 1 drainage area leaving the development to another shall not be allowed unless analysis determines that there are no adverse effects to adjacent offsite drainage areas due to increased or decreased runoff.

(c) Hydrologic Calculations to be used in this section.

1. Pre-development runoff curve numbers shall be those listed in Table 4 unless the watershed of the project site had at least 40% total impervious area since 2000, in which case the pre-development conditions to be matched shall be the existing land cover.

2. For the 10, 25, and 100-year 24 hour recurrence interval events, appropriate RCNs for post developed conditions are described in TR-55. For runoff events less than or equal to the 5-year recurrence interval, separate drainage areas and runoff curve numbers (RCN) shall be used to calculate post developed runoff and then combined. The composite RCN's as defined in TR-55 shall not be used.

POST CONSTRUCTION STORM WATER MANAGEMENT 29.09(1)(c)3.

3. For projects disturbing 5 acres and more or where land disturbance is to occur on greater than 40% of the overall site, post-development hydrologic soil group shall be raised to the next class for hydrologic calculations.

4. All calculations must be provided to the Department to demonstrate that required storm water standards have been met. All calculations must be documented as complying with the approved technical standards and construction specifications.

Table 4 Pre-Development Runoff Curve Numbers for Determining Flow Control				
Hydrologic Soil Group	A	B	C	D
Curve Numbers	30	55	70	77

(2) Water Quality - Post Construction. Pollutant loading models such as DETPOND, SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids (TSS). By design, post development storm water BMP's must control total suspended solids in storm water runoff based on the average annual rainfall, as compared to no runoff management controls. Table 5 summarizes the TSS reduction requirements. For details obtain application checklists from the Department. Exemptions/prohibitions are located in s. 29.06.

Table 5 Summary Table for TSS Reduction Performance Standard.	
<i>Development Type</i>	<i>Performance Standard – TSS Reduction</i>
New Development	80% compared to no controls
In-fill > 5 acres	80% compared to no controls
New Transportation Facilities	80% compared to no controls
Redevelopment	60% of load from impervious surfaces other than disconnected rooftops compared to no controls
Highway Reconstruction	60% of load from impervious surfaces compared to no controls
Minor Road Reconstruction	60% of load from impervious surfaces compared to no controls for increase in impervious surface associated with minor road reconstruction
In-fill < 5 acres and before 10-1-12	40% compared to no controls
In-fill < 5 acres and on or after 10-1-12	80% compared to no controls

POST CONSTRUCTION STORM WATER MANAGEMENT 29.09(2)(a)

(a) Fertilizer Application Plan. This section applies when a property or a series of adjacent properties under the same ownership or responsible party has over 5 acres of pervious surface where fertilizers are applied. An annual plan shall be certified by an authorized representative of the property. The Application and the format for the annual plan are available from the Department.

1. The responsible party shall prepare a site specific nutrient application schedule based upon appropriate soil tests. The application schedule shall be designed to maintain the optimal health of the vegetation and minimize runoff of excess nutrients.

2. The responsible party shall submit this plan annually to the Department by December 31 of each year. This annual submittal shall also include the documentation of the current year's fertilization application.

(3) Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following requirements. Exemptions and Prohibitions addressing both source locations and BMP treatment locations are located in a s. 29.06(5).

(a) Development Disturbing 1 or More Acres.

1. New Development with 10% to 40% Connected Imperviousness. Practices shall be designed to infiltrate sufficient runoff volume so the post-developed infiltration volume shall be at least 90% of the pre-development infiltration volume, based upon average annual rainfall. However, when designing appropriate infiltration systems, no more than 1% of the site is required to be used as effective infiltration area.

2. New Development with More Than 40% and Up to 80% Connected Imperviousness. Practices shall be designed to infiltrate sufficient runoff volume so that the post development infiltration volume shall be at least 75% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems, no more than 2% of the site is required to be used as effective infiltration area.

3. New Development With More Than 80% Connected Imperviousness. Practices shall be designed to infiltrate sufficient runoff volume so the post-developed infiltration volume shall be at least 60% of the pre-development infiltration volume, based on average annual rainfall. However, when designing appropriate infiltration systems, no more than 2% of the site is required to be used as effective infiltration area.

(b) All Development Disturbing Less Than 1 Acre – The appropriate standard in subs. (3)(a) above or the following shall be met:

1. Residential development shall infiltrate 25% of the post-development runoff from the 2 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 TR55. No more than 1% of the project site is required as an effective infiltration area; and,

2. Non-residential development, including commercial, multifamily, industrial and institutional development, shall infiltrate 10% of the post-development runoff from the 2 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 TR55. No more than 2% of the project site is required as an effective infiltration area.

POST CONSTRUCTION STORM WATER MANAGEMENT 29.09(3)(c)

(c) Pre-Development Conditions. It shall be assumed “good hydrologic conditions” exist 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-developed land cover is cropland, the runoff curve numbers in Table 6 shall be used.

Table 6				
Pre-Development Runoff Curve Numbers for Cropland Areas for Determining Required Infiltration				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	55	69	78	83

(d) Pre-treatment Required. Prior to infiltrating runoff from parking lots or from new road construction in commercial, industrial and institutional areas, pre-treatment shall be required. The pre-treatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality.

(4) Thermal Controls. The storm water management plan shall include provisions and practices to reduce the temperature of runoff for sites subject to this Chapter that lie adjacent to drainage-ways located within the watershed of specific cold water streams designated on a map that is available for reference at the Department office.

(a) The storm water management plan does not need to meet the requirements in sub.(5) if the applicant can justify by use of a model approved by the Department that practices are not necessary because the temperature increase of runoff from the site post-development will be zero.

(5) Protective Areas.

(a) In this paragraph "Protective area" means the same areas and setbacks as defined in NR 151.12(5)(d).

(b) This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to s. 29.06.

(c) Requirements. The following requirements shall be met:

1. Impervious surfaces shall be kept out of the protective area. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area.

2. No impervious surface of a transportation facility may be constructed within a protective area, unless the transportation facility authority obtains an exemption from the Department.

3. Where land disturbing construction activity occurs within a protective area, establishment of self-sustaining vegetative cover of 70% or greater shall be maintained. Non-vegetative materials, such as rock riprap, may be used on steep slopes or in areas of concentrated flows.

4. Best management practices to control pollutants from non-point sources may be located in the protective area.

POST CONSTRUCTION STORM WATER MANAGEMENT 29.09(6)

(6) Fueling and Vehicle Maintenance Areas. Fueling and vehicle maintenance areas shall have BMPs designed, installed and maintained to reduce petroleum within runoff, to the extent that the runoff that enters waters of the state contains no visible petroleum sheen.

29.10 PERMITTING REQUIREMENTS AND PROCEDURES.

(1) Permit Required. A storm water permit under s. 29.05(2) shall be obtained before any person commences a land disturbing or land development activity, pursuant to the applicability and exemption provisions of s. 29.06. Permits shall be applied for at the Department office. Based upon the scope of the project, a preliminary review letter under s. 29.07 above and certification of compliance under s. 29.10(3)(d) below may also be required as part of the permit process.

(2) Permit Application and Fee. Unless specifically excluded by this chapter, any responsible party applying for a permit shall submit the following:

(a) Completed application form that is signed by the landowner or a notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent and binding the landowner to the terms of this chapter. If a landowner appoints an agent to submit an application, the landowner shall be bound by all of the requirements of this ordinance and the terms of any permit issued to the agent.

(b) Fees as required by s. 29.18, if applicable;

(c) If required by s. 29.11, a storm water management plan meeting all of the standards of s. 29.09, a draft maintenance agreement as described in s. 29.12; and, if applicable, a copy of the preliminary review letter;

(d) Copies of permits or permit applications or approvals required by any other governmental entity;

(e) A proposed timetable for installation of BMP's indicated in the approved erosion control and storm water management plans and a detailed schedule for completion of construction.

(f) An estimate of the cost of completion and installation of all elements of the approved erosion control and storm water management plans.

(g) Evidence of financial responsibility to complete the work proposed in the plan. The Department may require a financial assurance in accordance with s. 29.13.

(h) A completed Erosion Control Plan as required in Chapter 21 of this Code.

(3) Approval process.

(a) The Department shall verify that the permit application materials are complete and review the plan(s) for compliance with the standards identified in ss. 29.08 and 29.09 of this chapter.

(b) The following storm water plans require approval of the Planning, Resources and Development Committee:

POST CONSTRUCTION STORM WATER MANAGEMENT 29.10(3)(b)1.

1. Any plans meeting the definition as defined in Chapter 18 of the La Crosse County Code of Ordinances.

2. Any plan involving a land disturbance of 5 or more acres.

(c) Plans requiring Planning, Resources and Development Committee approval shall not be reviewed by the Committee unless a complete application and all supporting documentation according to s 29.10 is submitted to the Department at least 35 working days prior to the regularly scheduled committee meeting.

(d) For plans not requiring Planning, Resources and Development Committee approval, the Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this chapter within 25 business days of the receipt of a complete permit application.

(e) After the Department has reviewed a plan and it meets all the requirements of this chapter, and all applicable fees and financial assurances are in place, a permit shall be issued.

(f) The Department may request additional information from the applicant. If additional information is submitted, the required review time shall begin at the time additional information is submitted.

(g) Where installed storm water practices will be privately-owned, an affidavit which describes the property by legal description, notifying future prospective purchasers of the existence of a storm water permit issued under this chapter and applicable plan, timetables and potential liability imposed by s. 29.15 for failure to bring the property into compliance with this chapter after notification, binding on purchasers and successors in interest, shall be recorded with the La Crosse County Register of Deeds prior to issuance of a storm water control permit. The foregoing information shall also be noted on every plat and certified survey map.

(h) As part of the approval process, the Department shall determine the minimum number of construction inspections of engineered practices. These compliance inspections are the responsibility of the permittee who must submit the inspection results to the Department prior to release of the financial assurance or upon request.

(4) Permit conditions. Permits issued under this subsection may include conditions established by Department in addition to the requirements needed to meet the performance standards in s. 29.09 or a financial assurance as provided for in s. 29.13.

(a) The storm water components of the plan shall be maintained in perpetuity.

(b) The permittee is responsible for successful completion of the storm water management plan. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.

(c) 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 or curative action. The application form shall contain a prominent provision advising the applicant and landowner of this requirement.

(d) A copy of the approved permit and storm water 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.

POST CONSTRUCTION STORM WATER MANAGEMENT 29.10(5)

(5) Inspections.

(a) Engineered features shall be inspected according to the submitted construction inspection schedule as required under subsection (3)(h).

(b) Within 10 days after installation of all practices in an approved storm water management plan, the permittee shall submit a letter of certification to the Department, that has been obtained from the designer of the plan, ensuring that constructed storm water management practices and conveyance systems comply with the specifications included in the approved plans. Prior to release of any financial assurance, as-built plans, including a set of drawings comparing the approved storm water management plan with constructed project, shall be submitted by the designer of the system.

(c) The Department shall inspect the property to verify compliance within 10 days of notification.

(d) A final inspection shall be completed by the Department after review of the as-builts to determine compliance with approved plans. All compliance inspection results required under s. 29.10(3) shall be submitted at the time of the final inspection. If the Department determines that any of the applicable requirements have not been met, the Department shall notify the permittee what changes shall be necessary to meet the requirements.

(6) Permit transfers.

(a) When a permittee and/or 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 Department.

(b) When a permittee and/or landowner transfer ownership, possession or control of real estate subject to either or both an uncompleted erosion control storm water 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 ordinance.

(c) When ownership, possession or control of property subject to an uncompleted storm water management plan is transferred, the seller shall notify the buyer in writing as to the current status of compliance with the plan. The seller shall provide the buyer a copy of the storm water management plan. A copy of the notice shall be provided to the Department.

(d) Transfers of interest in real estate subject to an approved, uncompleted plan may be conducted consistent with this ordinance. The transferee shall obtain transfer approval from the Department to become a sub-permittee to complete that portion of the approved plan regulating runoff on the transferee's property.

(e) The transferee shall provide the Department with a continuing surety bond approved by the Department or certified check in an amount sufficient to complete the work proposed in the approved plan. At the time of transfer the transferee 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 Department to attain plan compliance. When an approved storm water management plan is not completed as proposed, the Department may use the surety bond to complete remaining work to achieve plan compliance.

POST CONSTRUCTION STORM WATER MANAGEMENT 29.10(7)

(7) 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 Department prior to implementation of said changes. One permit revision is allowed at no charge. All other revisions shall be charged at a fee set by the County Board of Supervisors.

(8) Permit Requirements. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Department may suspend or revoke a permit for violation of a permit condition, following written notification to the responsible party. An action by the Department to suspend or revoke this permit may be appealed in accordance with s. 29.16.

(a) Compliance with this permit does not relieve the permittee of the responsibility to comply with other applicable federal, state, and local laws and regulations.

(b) The permittee 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.

(c) The permittee shall notify the Department at least 2 business days before commencing any work on the storm water management plan, and within 5 business days upon completion of a storm water management practice.

(d) All infiltration basins or bio-retention practices shall have construction inspections performed according to the construction inspection schedule required under s. 29.11. The inspector shall certify that the practices have been installed according to the technical standards.

(e) Plan Modifications. The Department shall be notified of any significant modifications proposed to be made to the approved plans. The Department may require proposed changes to be submitted for review prior to incorporation into the approved plans or implementation. Any modifications made during plan implementation without prior approval by the project engineer or designer and the Department are subject to enforcement action.

(f) The permittee shall maintain all storm water management practices in accordance with the storm water management plan until as-built and final inspection become the responsibility of the party referenced in the approved maintenance agreement.

(9) Permit Duration.

(a) The permit shall be active for 18 months. If final as-builts have not been submitted, the permit may be extended for an additional 6 months.

(b) After the extension the County may take action as provided in ss. 29.14 and 29.15.

29.11 STORM WATER MANAGEMENT PLAN REQUIREMENTS

(1) The applicant must provide a storm water management plan containing the following:

(a) A storm water management plan meeting all of the standards of s. 29.09 and a draft maintenance agreement as described in s. 29.12;

POST CONSTRUCTION STORM WATER MANAGEMENT 29.11(1)(b)

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

(c) Maps of existing and proposed watersheds, sub-watersheds, Tc/Tt flow paths, soil types, hydrologic soil groups, land uses/cover type and accompanying runoff curve numbers within the site and draining into the site from adjacent properties, with unique references to hydrology data summaries and a description of the ultimate receiving water body(s) for off-site discharges;

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

1. Pre-developed peak flow/duration rates;
2. Post-developed peak flow/duration rates with no detention;
3. Post-developed peak flow/duration rates with detention;
4. Assumed developed runoff curve numbers (RCNs); and
5. Time of concentration (Tc) used in calculations.

(e) Details and calculations indicating how the infiltration standards are to be met;

(f) Details and calculations indicating how the water quality standards are to be met;

(g) A complete site plan and specifications shall be signed by the plan designer and shall be drawn to an easily legible scale, clearly labeled, and include, at a minimum, all of the following information:

1. Property lines and lot dimensions;

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

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

4. All natural and artificial water (including intermittent streams), ordinary high water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries. If a potential for flood zone and wetlands exists and no maps are available, flood zone determination or wetland delineation, or both, may be required at the applicant's expense;

5. Depth to bedrock;

6. Depth to seasonal high water table;

7. The extent and location of all soil types as described in the La Crosse County Soil Survey, slopes exceeding 30%, and areas of natural woodland or prairie;

8. Existing and proposed elevations and existing and proposed contours;

POST CONSTRUCTION STORM WATER MANAGEMENT 29.11(1)(g)9.

9. Location and dimensions of proposed drainage easements;
 10. Location of soil borings and soil profile evaluations to determine feasibility of any proposed storm water BMP's and to comply with applicable technical standards;
 11. Location of all storm water management practices;
 12. All existing and proposed drainage features;
 13. The location and area of all proposed impervious surfaces; and,
 14. The limits and area of the disturbed area.
- (h) Engineered designs for all structural management practices;
 - (i) A description of methods to control oil and grease or written justification for not providing such control;
 - (j) If required under s. 29.09(4), a description of and plans to control temperature of runoff;
 - (k) A maintenance plan and schedule for all permanent storm water management practices as recorded on the affidavit required in s. 29.12;
 - (l) A proposed timetable and schedule for completion and installation of all elements of storm water management plans;
 - (m) An estimate of the cost of completion and installation of all elements of the approved erosion control and storm water management plans;
 - (n) Evidence of financial responsibility to complete the work proposed in the plan. The Department may require a financial security instrument sufficient to guarantee completion of the project;
 - (o) Construction inspection schedule for engineered features, such as detention basins and infiltration devices. The components of the checklist shall be dated and signed by the person responsible for the construction checks; and,
 - (p) A completed storm water management application checklist.

29.12 MAINTENANCE AGREEMENT.

(1) Maintenance Agreement Required. The maintenance agreement shall be required for all permanent storm water BMP's installed to comply with the requirements of this chapter. The maintenance agreement shall be independent of all other restrictions or covenants and shall comply with all provisions of this section. The maintenance agreement shall, at a minimum, contain the following information and provisions:

POST CONSTRUCTION STORM WATER MANAGEMENT 29.12(1)(a)

(a) Ownership. Identification of the owner(s) of the land parcel(s) where the storm water BMP is located. Ownership shall be the same as those assigned maintenance responsibilities under sub. (f), unless otherwise designated in a regional storm water management plan and approved by the applicable unit(s) of government. All storm water BMPs that collect runoff from more than 1 lot within a subdivision shall be located on outlots. For all privately owned outlots, ownership shall be by proportional undividable interest for all properties that are within the control of the applicant and drain to the BMP.

(b) Location. A legal description and survey map of the storm water BMP location(s), showing associated drainage and any access easements required to maintain the BMP.

(c) Design. Detailed drawings of each storm water BMP and a general description of its purpose and design, including but not limited to BMP dimensions and elevations, inlet and outlet designs and elevations and the drainage area served by the BMP. Where possible, use as-built survey information.

(d) Maintenance Plan. A description of all long term maintenance activities that will likely be required for each BMP included in the agreement, an estimated time interval between each activity, and a schedule for required inspections.

(e) Access. Authorization shall be required for vehicle access, connecting to a public road right-of-way, to allow for future BMP maintenance work. The access easement shall be passable during conditions that would occur during a 100 year, 24 hour storm.

(f) Maintenance responsibility. The person(s), organization, municipality or other entity responsible for long-term maintenance of the storm water BMP shall be identified and documented. The assignment of maintenance responsibilities for a privately owned storm water BMP shall, at a minimum, include all properties that are within the control of the permit holder and drain to the BMP.

(g) Inspections. Authorization for access to the property by representatives of the local municipality or their designee and La Crosse County to conduct inspections of the BMP, monitor its performance and maintenance, and notify the designated entity when maintenance or repair activities are necessary. Should the owner(s) or the local municipality request inspections to be preformed by the Department after the project has been completed and as-builts approved, a fee will be assessed at the market rate to be paid by whoever requested the inspection. A statement shall also be included that states, upon written notification by the local municipality or their designee, that the entity under sub. (f) shall have a BMP inspection conducted by a qualified professional, file a report and complete any maintenance or repair work recommended in the report as called for in the approved maintenance plan.

(h) Municipal maintenance. Authorization for the local municipality or their designee to perform any maintenance required if the entity identified under sub. (f) above does not perform the required activity within the specified time period.

(i) Special assessment. A statement that the applicable local unit of government may exercise their statutory authority to levy and collect a special assessment or charge for any services carried out relating to sub. (g) or (h);

(j) Binding agreement. A statement confirming that the entire agreement shall remain binding on all subsequent owners of the property upon which the storm water BMP is located and that the restrictions shall run with the land and on any other property which is subject to maintenance responsibility in the agreement.

POST CONSTRUCTION STORM WATER MANAGEMENT 29.12(1)(k)

(k) Agreement modifications. The unit of government named under sub. (i) shall have sole authorization to modify the provisions of the agreement upon 30-day notice to the current owner(s) and other parties responsible for maintenance of the storm water BMP. Any changes made to the agreement shall comply with this subsection.

(l) Other information as determined to be necessary by the Department to ensure compliance with this ordinance.

(2) Approval and Recording.

(a) Approval. The Department shall review and approve the content of all maintenance agreements.

(b) Recording. Upon certification of compliance by the Department, the maintenance agreement shall be recorded at the La Crosse County Register of Deeds referencing any plat, certified survey or other ownership transfer device pertaining to land which contains the storm water BMP or is subject to maintenance responsibility in the approved agreement, binding on subsequent owners of the property. No storm water BMP maintenance agreement shall be recorded prior to Department approval.

(c) Copy. The permit holder shall provide a copy of the recorded agreement, including evidence of the actual recording(s), to the Department as a condition of release of any required financial assurance.

(d) Maintenance Responsibilities Prior to a Maintenance Agreement. The permit holder and other responsible party shall be responsible for the maintenance of all storm water BMPs prior to permit termination.

29.13 FINANCIAL ASSURANCE.

(1) The Department may require the applicant to submit a financial assurance in a form and manner acceptable to the Department prior to issuance of the permit to ensure compliance with the approved storm water plans and other permit requirements.

(2) Amount. The proposed amount of financial assurance shall be submitted by the applicant for review and approval by the Department. The amount shall be sufficient to complete the requirements in the approved storm water management plan and reimburse the Department for project administration.

29.14 ILLICIT DISCHARGES.

(1) Prohibitions.

(a) Discharges. Except for storm water and other discharges specifically exempted under sub. (2), no discharge, spilling or dumping of substances or materials shall be allowed into receiving water bodies or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

(b) Connections. The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this ordinance, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of connection.

POST CONSTRUCTION STORM WATER MANAGEMENT 29.14(2)

(2) Exemptions. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water:

- (a) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.
- (b) Discharges resulting from fire fighting activities.
- (c) Discharges from uncontaminated ground water, potable water sources, roof drains, foundation drain and sump pumps, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been de-chlorinated.

(3) Notice of Violation. Whenever the Department finds a violation of this section, the Department may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

- (a) The elimination of illicit connections or discharges;
- (b) That violating discharges, practices, or operations shall cease and desist;
- (c) The abatement or remediation of storm water pollution or contaminated hazards and the restoration of any affected property; and,
- (d) Any responsible party that fails to comply with a notice of violation under this section, shall be subject to further enforcement action under the provisions of s. 29.15.

29.15 ENFORCEMENT.

(1) A notice of non-compliance shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken. The Department may issue a Notice of Non-compliance if:

- (a) The storm water plan is not being implemented as approved; or
- (b) The conditions of the permit are not being met.

(2) The Department may post a stop-work order on construction activity if the site is out of compliance or is in violation of this chapter, or the Department may request the La Crosse County Corporation Counsel to obtain a cease and desist order or other injunctive relief to enforce compliance with the provisions of this chapter if:

- (a) Any land disturbance regulated under this Code is being undertaken without an approved storm water plan;
- (b) A Notice of Non-compliance has been issued and necessary action has not been taken within the timeframe indicated on the Notice to comply with the permit's conditions; or
- (c) If the violations to a storm water permit are likely to result in damage to properties, public facilities, or waters of the State.

POST CONSTRUCTION STORM WATER MANAGEMENT 29.15(3)

(3) After posting a stop-work order, the Land Conservation Administrator or his/her representative may issue a notice of intent to the landowner and land user, if applicable, of the County's intent to perform work necessary to comply with this Code.

(4) The County or a party designated by the County may go on the site and commence the work no sooner than 5 days after issuing the notice of intent. Exceptions may be granted in emergency situations where the potential for severe off-site damage warrants immediate attention. The cost incurred by the County, plus interest, at the rate authorized by the County Board of Supervisors, shall be deducted from any financial assurance posted pursuant to s. 29.13.

(5) The Department may revoke a permit issued under this chapter for non-compliance with ordinance provisions.

(6) Any permit revocation, stop work order, or cease and desist order shall remain in effect until terminated by the Department or by a court with jurisdiction.

(7) The Department shall notify the responsible party in writing of any changes required in storm water practices to meet the design requirements after submittal and review of the as-builts.

(8) If so directed by the Department, the responsible party shall repair all damage to adjoining municipal facilities and drainage ways caused by runoff resulting from non-compliance with the approved storm water management plan.

(9) Any land user who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$400 and no more than \$1500 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(10) The responsible party, including any land user, is subject to the enforcement actions and penalties detailed in this section if the responsible party fails to comply with the terms of this permit.

29.16 APPEALS

(1) The La Crosse County Board of Adjustment shall exercise the following powers:

(a) Hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Department or Planning Administrator in administering this Code;

(b) Upon appeal, may authorize variances from the provisions of this Code, which are not contrary to the public interest, and where, due to special conditions, a literal enforcement of the provisions of the Code will result in unnecessary hardship; and,

(c) Use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(2) Any applicant, landowner, landuser or aggrieved party may appeal any order, decision or determination made by the Department or Planning Administrator relative to sites in which any person has interest.

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29.17 AMENDMENTS. Amendments to this Chapter may be made upon petition of any interested party by using the same procedure as is provided in s. 59.69, Wis. Stats., except that any amendment does not require approval and is not subject to disapproval by any town board.

29.18 FEES.

(1) Ordinary Fees. Plan review fees shall be determined by the County Board. Only 1 fee per each plan submitted may be charged except where re-submittal is required.

(2) Re-submittal fees will be assessed at a maximum of 25% of the original permit fee or actual cost, which ever is less.

(3) After-the-Fact Fees. When a permit is acquired after-the-fact, the fee shall be a minimum of 2 times the ordinary fee for the project.

29.19 SEVERABILITY. If any portion of this Chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.