

DRAFT

Village of Menomonee Falls, Wisconsin
UTILITIES & PUBLIC WORKS COMMITTEE MEETING
MINUTES

Monday, September 16, 2019

Present: Katie Kress, Trustee; Tim Newman, Trustee; Steve Taggart, Trustee

1. Consideration of Award of Contract for Rotary Park No. 1 Restroom Renovations Project No. 64073.

Motion by Trustee Tim Newman, second by Trustee Steve Taggart to recommend to the Village Board the consideration of Award of Contract for Rotary Park No. 1 Restroom Renovations Project No. 64073

Vote: 3 - 0 Motion Carried

2. Consideration of an Ordinance Amending Chapter 38 [ENVIRONMENT] of the Municipal Code Relating to Storm Water Management Regulations.

Motion by Trustee Tim Newman, second by Trustee Steve Taggart to recommend to the Village Board to consideration an Ordinance Amending Chapter 38 [ENVIRONMENT] of the Municipal Code Relating to Storm Water Management Regulations.

Vote: 3 - 0 Motion Carried

Minutes submitted by Trustee XXXXXX
Meeting minutes transcribed by Laurie Lang



Utilities and Public Works Committee

1.

Meeting Date: 09/16/2019
Topic: Rotary Park #1 Restroom Renovations Project #64073
From: Arlyn Johnson, Assistant Manager/Director of PW
Department: Administration
Presenter: Matt Janecke
Date of Committee 09/16/2019
Action (if required):
Date of Village Board 09/16/2019
Action (if required):

Information

Subject:

Consideration of Award of Contract for Rotary Park No. 1 Restroom Renovations Project No. 64073.

Background Information:

The Rotary Park (Area 1-Fond du Lac Ave.) Restroom Renovation Project includes reconfiguration of the restroom to ADA standards, new flooring, new fixtures, new furnishings and new lighting. Funding for this project was approved by the Village Board as part of the 2019 Capital Budget under Various Park Improvements in the total amount of \$450,000. Of the \$450,000, \$350,000 of these funds were to come from the proceeds of the disposal of Village owned properties.

On March 6, 2017, the Village Board adopted Resolution No. 1148-R-17 authorizing the Village Manager to implement a program to dispose of certain Village Owned Properties. As stated in this Resolution, "the Board of Trustees finds that the disposal of parcels identified on Exhibit A could further the public interest and the following goals: generating additional funds for other possible capital projects of the Village; returning the properties to the property tax rolls; reducing the Village's property maintenance responsibilities; and furthering economic development and redevelopment in the Village;". In accordance with Resolution No. 1148-R-17, our intent is to utilize the proceeds from the disposal of these Village Owned Properties to fund a portion of the various capital park improvement projects as described above.

Key Issues for Consideration:

The \$450,000 included in the 2019 Capital Budget for Various Park Improvements included \$250,000 for the Rotary Park #1 Restroom Renovation Project No. 64073. Approximately \$40,000 has been committed to date for the architectural design and other administrative costs leaving a remaining budget of \$210,000 to fund the construction costs necessary to complete the project.

Four bids were received for the project with the low bid submitted by Burkhart Construction in the amount of \$101,500.00.

Action By Committee or Village Board:

Staff recommends award of the contract for the Rotary Park #1 Restroom Renovation Project No. 64073 to the low bidder Burkhart Construction in the amount of \$101,500.00.

Fiscal Impact

Attachments

Memo and Bid Tabulation Rotary Park Restroom #1

To: Mark Fitzgerald, Village Manager
Arlyn Johnson, Asst. Village Manager/Director of Public Works

From: Matthew Janecke,
Assistant Director of Utilities and Public Works 

Cc: Jason Kaczmarek, Director of Financial Services

Date: September 11, 2019

Re: Bid Recommendation Memo for the Award of Contract
for the Rotary Park #1 Restroom Renovations (Fond du Lac Avenue)
Project #64073

MEMO

This project consists of the renovating the restroom facility at Rotary Park #1. The project primarily focuses on making ADA improvements to the interior and exterior of the building. Other improvements relate to the general upkeep of the building and are items that are in need of repair or replacing while the building is under construction.

Funding for this project was approved by the Village Board as part of the 2019 Capital Budget projects for the Parks in the amount of \$450,000. Proceeds for the all the park projects were generated by the sale of excess Village owned property and issuance of general obligation bonds. **\$250,000** was specifically dedicated to fund the Restroom Renovations project. Some of the available funds have already been utilized for the design and administrative portion of the project in the amount of **\$40,000.00**, leaving **\$210,000.00** remaining to fund the construction portion of the project.

Bids for this project were received by the Village on September 11, 2019 with four (4) contractors submitting bids. The project team (consisting of myself, Arlyn Johnson, and James Otto) has reviewed the received bids and a copy of the bid tabulation is attached for your reference. The lowest Lump Sum Bid Amount was submitted by **Burkhart Construction Corporation** in the amount of **\$101,500.00**.

It must be noted that at the time Capital Projects were submitted for consideration; Staff was unaware whether or not exterior modifications would be needed to expand the building foot print to accommodate interior ADA standards. This explains the discrepancy between the budget amount and the actual received bids.

RECOMMENDATION:

The Department of Public Works recommends that the Village Board Award the Contract for the Rotary Park #1 Restroom Renovation project, Project # 64073, be awarded to Burkhart Construction Corporation for the Lump Sum Bid Amount of \$101,500.00.

**PROJECT NO. 64073
 ROTARY PARK #1 RESTROOM RENOVATIONS**

BID OPENING : SEPTEMBER 11, 2019 @ 2:00 P.M.
 DEPARTMENT OF PUBLIC WORKS
 MENOMONEE FALLS ENGINEERING CONFERENCE ROOM

Bidder #1	Bidder #2	Bidder #3	Bidder #4
BURKHART CONST. 3271 ENDEAVOR DRIVE PO BOX 329 RICHFIELD, WI 53076	J.H. HASSINGER N60W16289 KOHLER LANE MENOMONEE FALLS, WI 53051	CARDINAL CONST. 1183 INDUSTRIAL PKWY FOND DU LAC, WI 54936	CREATIVE CONSTRUCTORS N83W13430 LEON ROAD MENOMONEE FALLS, WI 53051
5%	5%	5%	5%
\$101,500.00	\$118,788.00	\$123,368.00	\$161,500.00

BID BOND

LUMP SUM BASE BID AMOUNT



Utilities and Public Works Committee

2.

Meeting Date: 09/16/2019
Topic: Ordinance amending Chapter 38 of the Municipal Code regarding Storm Water Management
From: Tom Hoffman, Director of Engineering & Development
Department: Engineering Services
Presenter: Tom Hoffman
Date of Committee 09/16/2019
Action (if required):
Date of Village Board 09/16/2019
Action (if required):

Information

Subject:

Consideration of an Ordinance Amending Chapter 38 [ENVIRONMENT] of the Municipal Code Relating to Storm Water Management Regulations.

Background Information:

The Director of Utilities, Jeff Netteshiem, gave a presentation to the Village Board at your last meeting on Sept. 3rd, 2019. The Milwaukee Metropolitan Sewerage District (MMSD) updated their MMSD Rules to Chapter 13 regarding Surface Water and Storm Water. These changes included the requirement of Green Infrastructure for any Development that creates 5,000 square feet of additional impervious surface. The attached Ordinance amends the Village's storm water ordinance to include the necessary updates to include these MMSD rules changes. The Village is required to have these adopted by Sept. 27th, 2019 and provide MMSD with a copy of the amended Ordinance by Oct. 27th, 2019.

Key Issues for Consideration:

Action By Committee or Village Board:

I recommend the adoption of the Ordinance Amending Chapter 38 [ENVIRONMENT] of the Municipal Code Relating to Storm Water Management Regulations.

Attachments

Amend Storm Ord 1
Redline ofr Amend Storm Ord

Permit for Green Inf 1

Village of Menomonee Falls Ordinance No. ____-O-19

AN ORDINANCE AMENDING CHAPTER 38 [ENVIRONMENT] OF THE MUNICIPAL CODE RELATING TO STORM WATER MANAGEMENT REGULATION

WHEREAS, it is deemed to be in the best interest of the Village of Menomonee Falls that the Municipal Code of the Village of Menomonee Falls be further modified and amended in the manner hereinafter more particularly set forth.

NOW, THEREFORE, the Board of Trustees of the Village of Menomonee Falls do hereby ordain as follows:

Section 1. Paragraph (3) of Subsection (d) of Section 38-201 [Authority] of Division 1 [Post Construction Storm Water Management Regulation] of Article V [Storm and Surface Water Regulations] of Chapter 38 [Environment] of the Municipal Code is created to read as follows:

(3) Milwaukee Metropolitan Sewerage District (MMSD) Rules & Regulations Chapter 13.

Section 2. Subsection (a) of Section 38-204 [Stormwater quality and quantity management applicability] of Division 1 [Post Construction Storm Water Management Regulation] of Article V [Storm and Surface Water Regulations] of Chapter 38 [Environment] of the Municipal Code is amended to read as follows by deleting the text highlighted with the strikeout feature (~~deletion~~) and by adding the double underlined text (addition):

Sec. 38-204. - Stormwater quality and quantity management applicability.

- (a) The water quality management duties apply to property development or redevelopment disturbing one or more acres after March 10, 2003, and the water quantity management duties apply to development or redevelopment that involves a net increases of impervious surface by ~~40,000~~5,000 square feet or more (0.~~23~~1 acres) or when the demolition or construction during redevelopment or parking lot reconstruction will disturb an area larger than 2 acres, unless the site is exempt under subsection (c).

Section 3. Subparagraph “c” of Paragraph (2) of Subsection (c) of Section 38-204 [Stormwater quality and quantity management applicability] of Division 1 [Post Construction Storm Water Management Regulation] of Article V [Storm and Surface Water Regulations] of Chapter 38 [Environment] of the Municipal Code is created to read as follows:

- c. Public road and sidewalk construction with increased impervious surface that is less than one-half acre. If the construction or reconstruction of a public road or sidewalk will increase impervious surfaces by one-half acre or more, then water quantity management is necessary for the net increase in impervious surface.

Section 4. Section 38-205 [Definitions] of Division 1 [Post Construction Storm Water Management Regulation] of Article V [Storm and Surface Water Regulations] of Chapter 38 [Environment] of the Municipal Code is amended as follows:

Subsection 4a. The definition of *Development* in Section 38-205 is amended to read as follows by adding the double underlined text (addition):

Development means construction of residential, commercial, industrial or institutional land uses and associated roads, parking lots, paved or unpaved storage areas including re-development.

Subsection 4b. Section 38-205 is further amended by adding a definition of *Green Infrastructure*, which is created to read as follows:

Green Infrastructure means any combination of landscaping, facilities, or equipment that captures rain at or near the site where it falls by infiltration into the soil, evapotranspiration by plants, or storage for beneficial use or delayed discharge. Green infrastructure includes, but is not limited to: rain gardens; wetlands; green roofs; bioswales, including dry ponds or other detention facilities designed to increase infiltration; permeable surfacing; landscaping with deeply rooted plants; cisterns; rain barrels; trees; soil amendments; wet ponds, when project-specific modeling shows sufficient detention volume; and removal of structures or pavement to allow revegetation and infiltration.

Section 5. Paragraph (4) of Section 38-206 [Technical standards] of Division 1 [Post Construction Storm Water Management Regulation] of Article V [Storm and Surface Water Regulations] of Chapter 38 [Environment] of the Municipal Code is amended to read as follows by deleting the text highlighted with the strikethrough feature (~~deletion~~) and by adding the double underlined text (addition):

Sec. 38-206. - Technical standards.

- (4) The rainfall distribution curves to be used shall be the ~~SCS Type II as presented in TR-55 and TR-20 or the SEWRPC 90th Percentile in Technical Report 40~~ NRCS MSE3 Distribution per the MMSD.

Section 6. Section 38-207 [Performance Standards] of Division 1 [Post Construction Storm Water Management Regulation] of Article V [Storm and Surface Water Regulations] of Chapter 38 [Environment] of the Municipal Code is repealed and recreated to read as follows:

Sec. 38-207. - Performance standards.

- (a) The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.
- (b) For projects that increase impervious surfaces by 10,000 square feet or greater a written stormwater management plan shall be completed by a professional engineer registered in the state in accordance with section 38-209 and shall be developed and implemented for each post-construction site and shall incorporate the requirements of this section.
- (c) For projects that increase impervious surfaces by 5,000 square feet but less than 10,000 square feet A written stormwater management plan shall be completed and shall be

developed and implemented for each post-construction site and shall incorporate the requirements of this section. It does not need to be prepared by a professional Engineer.

- (d) BMPs shall be located in an outlot and not in proposed lots, unless approved by the village manger or the manager's designee, for the following:
 - (1) Single- and multi-family residential developments.
 - (2) Commercial, industrial, institutional developments containing two or more lots.

The preliminary plat or certified survey map shall contain sufficient area to provide sizing.

- (e) Maintenance of effort. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of this chapter in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of ss. NR 151.122 to 151.125, whichever are more stringent.
- (f) The following performance standards shall be used to design stormwater facilities required under subsection (b):
 - (1) *Total suspended solids performance standard.*

- a. *Requirement.* BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site. BMPs shall be designed in accordance with Table 2., or to the maximum extent practicable as provided in subsection c. below. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Table 2. TSS Reduction Standards	
Development Type	TSS Reduction
New Development	80 percent
In-fill \geq 5 acres	80 percent
In-fill $<$ 5 acres on or after	
October 1, 2012	80 percent
Redevelopment	40 percent of load from parking areas and roads
In-fill $<$ 5 acres and before October 1, 2012	40 percent

- b. *Redevelopment.* Except as provided in NR § 151.121(5), the redevelopment total suspended solids reduction standard of table 2 applies to redevelopment.
- c. *Maximum extent practicable.* If the design cannot meet a total suspended solids reduction performance standard of subsection (a), Table 2, the stormwater management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable. The village may not require any person to exceed the applicable total suspended solids reduction performance standard to meet the requirements of maximum extent practicable.

- d. *Off-site drainage.* When designing BMPs, runoff draining to the BMP from off site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.
- (2) *Water quantity and management of peak runoff.* (Projects that increase impervious surfaces by 10,000 square feet or greater)
- a. Water quantity BMPs may be implemented on either a watershed basis or an individual site basis. When implemented on a watershed basis, the BMPs implemented at a particular site shall comply with the findings of the relevant local or regional storm water management plan, rather than subsection (2)b.
 - b. Water quantity BMP release rates shall be determined by using the unit release rate method or the volumetric design procedure identified in Milwaukee Metropolitan Sewerage District Chapter 13 and must meet the following requirements:
 - 1. By design, BMPs shall be employed to maintain or reduce the one-year, 24-hour and the two-year, 24-hour post-construction peak runoff discharge rates to the one-year, 24-hour and the two-year, 24-hour pre-development peak runoff discharge rates respectively, or to the maximum extent practicable. The runoff curve numbers in Table 3 shall be used to represent the actual pre-development condition. These post-construction peak release rates must be less than subsections 2.i. and 2.ii. below.
 - 2. If the unit release rate methodology is used to design water quantity BMPs, the following applies:
 - i. For the 50-percent/two-year, 24-hour design storm, BMPs shall be designed to achieve a maximum post-development runoff release rate of 0.15 cubic feet per second per acre.
 - ii. One-percent/100-year, 24-hour design storm, BMPs shall be designed to achieve a post-development runoff release rate of five-tenths cubic feet per second per acre.
 - 3. If the volumetric design procedure is used to design water quantity BMPs, the following applies:
 - i. For one-percent/100-year, 24-hour design storm, BMPs shall be designed to store runoff generated by the development during the critical time period identified in water shed. The BMPs shall discharge a volume equal to or less than the 100-year predeveloped volume determined for the development.
 - ii. For 50-percent/two-year, 24-hour design storm, BMPs shall be designed to store runoff generated by the development during the critical time period identified in water shed. The BMPs shall discharge a volume equal to or less than the two-year pre-developed volume determined for the development.
 - c. The preliminary sizing for the water quantity control shall be in accordance with the MMSD Surface Water and Storm Water Rules Guidance Manual guidelines of three-tenths acre-feet of storage per acre of proposed impervious area unless a final design is submitted. The preliminary plat shall contain sufficient area to provide this sizing. The stormwater management facilities shall be located in an outlot and not in proposed lots.

- d. 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 woodland, grass land or cropland, rather than using the respective TR-55 values, the runoff curve numbers in Table 3 shall be used.

Table 3 Maximum Pre-Development Runoff Curve Numbers for Cropland Areas				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

- e. The analysis shall contain inflow and outflow hydrographs, basin routing and stage-storage-discharge graphs for the one-year, two-year, ten-year, 50-year and 100-year events.
- f. The design shall include a summary table with peak water surface elevations, peak discharge rates, and storage volumes at each of the required events.
- g. The design shall include configuration details of the stormwater management facilities. Computations and details of all discharge structures including emergency overflow provisions shall be incorporated.
- h. The pond slopes below normal water elevations shall be a maximum of 6:1 (H:V) for the first two feet of normal depth.
- i. The pond slopes between the normal water level and the design high water level shall be a maximum of 4:1 (H:V).
- j. The top width of the embankment (a berm or structure of earth built or created to retain water in a reservoir) shall be a minimum of ten feet wide.
- k. A two-foot freeboard shall be provided around the stormwater management facilities except at the emergency overflow structure.
- l. The design shall include an analysis of the path of the stormwater runoff that would be in excess of the 100-year recurrence event in the developed condition or in case of failure of the discharge structures.
- m. In conjunction with the requirements for landscaping of the developments, the following restrictions shall be adhered to. When developing the landscape plan, embankments (berms) shall be kept clear of woody vegetation. In addition, woody vegetation shall be kept clear from all areas within 25 feet of the discharge structures including the emergency overflow devices and from areas inside the basin which are below the design high water level.

- n. The proposed stormwater management practices shall not be located in a mapped regional floodplain, an area designated as regulated wetlands, or an area that is inundated in the 100-year event as determined by an engineering study. The only exceptions shall be those detention/retention basins designated by a village approved watershed or sub-watershed stormwater management plan or local stormwater management plan that is regional in nature.
- (3) *Water quantity and management of peak runoff.* (Projects that increase impervious surfaces by 5,000 square feet but less than 10,000 square feet)
- a. Whenever development or redevelopment will increase impervious surface by an area equal to or greater than 5,000 square feet but less than 10,000 square feet, on a net basis, then the development or redevelopment shall include green infrastructure with a detention volume equal to one-half inch multiplied by the area of the net new impervious surface, except as provided in pars. b, c or d below.
1. Green infrastructure plans shall determine detention volume using the following procedures, by order of preference:
 - i. Project specific modeling.
 - ii. A calculating tool available at www.freshcoastguardians.com or subsequent locations identified by the MMSD.
 - iii. The following table:

Green Infrastructure	Unit Detention Volume
Bioswale	7.5 gallons per square foot
Cistern	Capacity of cistern
Constructed wetlands	8.3 gallons per square foot
Green roof	1.0 gallons per square foot
Native landscaping	0.4 gallons per square foot
Porous pavement	3.0 gallons per square foot
Rain garden	4.4 gallons per square foot
Rain barrel	Capacity of barrel
Tree	25 gallons per tree

2. Green infrastructure shall be constructed according to conservation practice standards established by the WDNR and available at WDNR website or subsequent locations identified by the WDNR.
 3. The new impervious surface or an equivalent impervious area shall drain to the green infrastructure installed to comply with section 13.302(3)(c) of the MMSD Chapter 13 Rules & Regulations.
- b. A development or redevelopment project owner may trade green infrastructure retention volume to another development or redevelopment project owner to achieve compliance with this section on a net basis. If a development or redevelopment project owner has implemented more green infrastructure detention volume at a particular project than required by this section, then that

development or redevelopment owner may trade this detention volume to another development or redevelopment project owner, who may proportionally reduce its detention volume. A development or redevelopment project owner may use trading to comply with this subsection only if the District has reviewed the trade and approved the trade in writing.

- c. If the new impervious surface is within a residential subdivision for which the District has approved a stormwater runoff management plan, then no additional stormwater runoff management is required.
- d. Redevelopment may reduce the amount of green infrastructure than required when conditions make the compliance unreasonable. Relevant conditions include, but are not limited to: soil contamination, groundwater contamination, land use requirements, land availability, opportunities for off-site management, construction delays, marginal costs and the availability of financing. In this case, redevelopment shall achieve the greatest practicable reduction.

(4) *Water quantity and management of peak runoff.* (Redevelopment or parking lot reconstruction disturbing two acres or more)

- a. If redevelopment will disturb two acres or more but will not add one-half acre or more of impervious service, then a site development stormwater runoff management plan shall achieve the following runoff release rate reductions:

Area Disturbed by Demolition or Construction	Reduction to the Existing Runoff Release Rate
Between 2 acres and 3.5 acres	10%
From 3.5 acres to 5 acres	15%
Greater than 5 acres	20%

- b. Runoff Management is required for the reconstruction of Parking Lots disturbing two acres or more only when the parking lot will be reconfigured or re-contoured. Runoff management requirements do not apply to pavement maintenance activities such as sealing, milling & overlaying or pulverizing & compacting.

(5) *Infiltration performance standard.*

- a. *Requirement.* BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
 1. *Low imperviousness.* For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent 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 one percent of the post-construction site is required as an effective infiltration area.
 2. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent 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 two percent of the post-construction site is required as an effective infiltration area.

3. *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent 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 two percent of the post-construction site is required as an effective infiltration area.
- b. *Pre-development.* Pre-development condition shall be the same as specified in Table 3.
 - c. *Source areas.*
 1. *Prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions of subsection f.:
 - i. Areas associated with a tier 1 industrial facility identified in NR § 216.21(2)(a), including storage, loading, and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.
 - ii. Storage and loading areas of a tier 2 industrial facility identified in NR § 216.21(2)(b).
 - iii. Fueling and vehicle maintenance areas. Rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.
 2. *Exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:
 - i. Parking areas and access roads less than 5,000 square feet for commercial development.
 - ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions under subsection c.1. above.
 - iii. Except as provided under NR § 151.121(5), redevelopment post-construction sites.
 - iv. In-fill development areas less than five acres.
 - v. Roads in commercial, industrial, and institutional land uses, and arterial residential roads.
 - d. *Location of practices.*
 1. *Prohibitions.* Infiltration practices may not be located in the following areas:
 - i. Areas within 1,000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.
 - ii. 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, including multi-family residential, industrial, and institutional land uses or regional devices for one- and two-family residential development.

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

2. *Separation distances.*

- i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 4:

Table 4. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	
All Other Impervious Source Areas	3 feet or more	Filtering Layer

- ii. Notwithstanding subsection (b), applicable requirements for injection wells classified under NR ch. 815 shall be followed.

3. *Infiltration rate exemptions.* Infiltration practices located in the following areas may be credited toward meeting the requirement under the following conditions, but the decision to infiltrate under these conditions is optional:

- i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
 - ii. Where the least permeable soil horizon to five feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
- e. *Alternate use.* Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this subsection (3).

- f. *Groundwater standards.*
 - 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 NR ch. 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 f.1. above, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- g. *Pretreatment.* 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 f. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales, or filter strips.
- h. *Maximum extent practicable.* Where the conditions of subsections c. and d. limit or restrict the use of infiltration practices, the performance standard of subsection 38-207(e)(3) shall be met to the maximum extent practicable.

(4) *Protective areas performance standard.*

- a. *Definition.* In this section, "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert so that runoff cannot enter the enclosure at this location.
 - 1. For outstanding resource waters and exceptional resource waters, 75 feet.
 - 2. For perennial and intermittent streams identified on a U.S. geological survey 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 wetlands not subject to subsections a.5. or a.6. below, 50 feet.
 - 5. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
 - 6. For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include: degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

7. In subsections 1. to 6. above, 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 NR § 103.03.
 8. Wetland boundary delineation shall be made in accordance with NR § 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
 9. For concentrated flow channels with drainage areas greater than 130 acres, ten feet.
 10. Notwithstanding subsections a.1. to a.6. above, the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.
- b. *Applicability.* This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subparagraph (4)d. below.
- c. *Requirements.* The following requirements shall be met:
1. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the stormwater management plan shall contain a written, site-specific explanation.
 2. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.
 3. Best management practices such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.
- d. *Exemptions.* This section does not apply to any of the following:
1. Except as provided under NR § 151.121(5), redevelopment post- construction sites.
 2. Infill development areas less than five acres.
 3. Structures that cross or access surface waters such as boat landings, bridges, and culverts.
 4. Structures constructed in accordance with Wis. Stats. § 59.692(1v).
- (5) *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.

(6) *Swale treatment for transportation facilities.*

- a. *Applicability* . Except as provided in subsection (d)(6)b., transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
 - i. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 - ii. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than one and one-half feet per second based on a two-year, 24-hour design storm. If a swale of 200 feet in length cannot be designed with a flow velocity of one and one-half feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.
- b. *Exemptions*. The village manager or the manager's designee may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 - i. An outstanding resource water.
 - ii. An exceptional resource water.
 - iii. Waters listed in § 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.
 - iv. Waters where targeted performance standards are developed under NR § 151.004, Wis. Adm. Code, to meet water quality standards.

(g) *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.
- (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) BMPs for water quantity management shall utilize the following techniques, in order of preference:
 - a. Preservation of the natural features of development sites, including natural storage and infiltration characteristics;
 - b. Preservation of existing natural streams, channels, and drainage ways;
 - c. Minimization of new impervious surfaces;
 - d. Use of vegetated stormwater control measures to treat runoff and conveyance of stormwater in open vegetated channels;

- e. Construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites; and
 - f. Construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.
- (h) *Location and regional treatment option.*
- (1) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system within the same watershed. Treatment of parking lot runoff on-site with vegetated stormwater control measures adjacent to parking areas is encouraged.
 - (2) Runoff within a non-navigable drainage way that flows into a BMP, such as a wet pond, is not required to meet water quality performance standards unless designed to provide treatment.
 - (3) Except as allowed under subsection (f)(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 article if:
 - a. The BMP was constructed prior to the effective date of this article and the BMP either received a permit issued under Wis. Stats. ch. 30, or the BMP did not require a Wis. Stats. 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 paragraph.
 - 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 NR ch. 103, Wis. Adm. Code and Wis. Stats. ch. 30.
 - (6) The discharge of runoff from a BMP, such as a wet pond, or after a series of such BMPs is subject to this chapter.
 - (7) The village manager or the manager's designee may approve off-site management measures provided that all of the following conditions are met:
 - a. The village manager or the manager's designee determines that the post-construction runoff is covered by a storm water management system plan that is approved by the village and that contains management requirements consistent with the purpose and intent of this article.
 - b. The off-site facility meets all of the following conditions:
 - i. The facility is in place.
 - ii. 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 article.

- iii. 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 village manager or the manager's designee 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 village manager or the manager's designee. In determining the fee for post-construction runoff, the village manager or the manager's designee shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (i) *Alternate requirements.* The village manager or the manager's designee may establish storm water management requirements more stringent than those set forth in this section if the village manager or the manager's designee determines that an added level of protection is needed to protect sensitive resources.
 - (j) *Credit for removal of impervious surfaces.*
 - (1) *Same site credit.* The administering authority may use the removal of pavement, covered structures or other impervious surfaces at the same property to calculate the net post construction impervious acreage and corresponding water quantity management duties. Credit may equal, but not be larger than the acreage of impervious surfaces removed when runoff release rates and detention are the best management practices utilized at the site. When best management practices with a higher order of preference are utilized in lieu of detention, equivalent credit may be granted as determined by the administering authority with the concurrence of the MMSD. Credit for reducing impervious surfaces at a site, not utilized by the development on the site, belongs to the administering authority and may be banked for allocation to other development within the watershed under subsection (h)(2).
 - (2) *Dispersed site in same watershed credit.* The administering authority may bank the removal of impervious surfaces, which individually must be one half acre or more, within the same watershed, where the volume, timing and peak flow of runoff will be distributed over the critical time sufficient to assure the level of protection provided by MMSD flood abatement projects will not be reduced. The administering authority may allocate banked credit to promote a policy of smart growth. The total acreage banked or allocated, or both, shall be reported, by watershed or sub-watershed, annually to the MMSD for concurrence.

Section 7. Subparagraph “a” of Paragraph (1) of Subsection (b) [Permit application and fees] of Section 38-208 [Permitting requirements, procedures and fees] of Division 1 [Post Construction Storm Water Management Regulation] of Article V [Storm and Surface Water Regulations] of Chapter 38 [Environment] of the Municipal Code is created to read as follows:

- a. No permit fee will be required for permit applications for projects that increase impervious surfaces by 5,000 square feet but less than 10,000 square feet

Section 8. Section 38-209 [Storm Water Management Plan] of Division 1 [Post Construction Storm Water Management Regulation] of Article V [Storm and Surface Water Regulations] of Chapter 38 [Environment] of the Municipal Code is amended as follows:

Subsection 8a. Subsection (b) of Section 38-209 is renumbered to be Subsection (c).

Subsection 8b. Subsection (c) of Section 38-209 is renumbered to be Subsection (d).

Subsection 8c. Subsection (d) of Section 38-209 is renumbered to be Subsection (e).

Subsection 8d. Subsection (b) of Section 38-209 is created as follows:

Sec. 38-209. Storm Water Management Plan.

...

- (b) Green Infrastructure plans shall include sufficient information to allow the Village and MMSD to independently evaluate compliance with section 13.302(3)(c) of the MMSD Chapter 13 Rules & Regulations.
 - (1) A description of the project and the dimensions of the new impervious surface.
 - (2) A description of the proposed green infrastructure and its dimensions.
 - (3) One or more drawings showing the new impervious surface and the green infrastructure.
 - (4) Calculations showing the detention volume needed and the retention volume provided by the proposed green infrastructure.
 - (3) A maintenance Plan

Section 9. Except as specifically modified and amended by this ordinance, the Municipal Code of the Village of Menomonee Falls shall remain in force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this ordinance are hereby repealed.

Section 10. This ordinance shall take effect and be in full force from and after its passage and publication or posting.

Section 11. **SEVERABILITY.** If a court of competent jurisdiction adjudges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

Adopted by the Board of Trustees of the Village of Menomonee Falls on the ____ day of September, 2019.

Date Published or Posted:

By: _____
David Glasgow, Village President

Attest: _____
Janice Moyer Village Clerk

ARTICLE V. – STORM AND SURFACE WATER REGULATIONS

DIVISION 1. - POST-CONSTRUCTION STORMWATER MANAGEMENT REGULATION

Sec. 38-201. - Authority.

- (a) This article is adopted by the village board of trustees under the authority granted by Wis. Stats. § 61.354, for villages. This article supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 61.35, that relate to storm water management regulations.
- (b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the same governing body.
- (c) The village board of trustees hereby designates the village manager to administer and enforce the provisions of this article. The village manager may delegate in writing to such person(s) as the manager deems appropriate any or all of the powers and duties granted to or imposed upon the manager under this article.
- (d) The requirements of this article 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 those authorized under Wis. Stats. §§ 281.16 and 283.33.
 - (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under NR § 151.004, Wis. Adm. Code.
 - (3) Milwaukee Metropolitan Sewerage District (MMSD) Rules & Regulations Chapter 13.

(Ord. No. 450-O-09, § 2, 6-15-09)

Sec. 38-202. - Findings of fact.

The village board of trustees 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:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature;
- (2) 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;
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
- (4) Reduce the quality of groundwater by increasing pollutant loading;
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities;
- (6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes;
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding; and
- (8) Aggravate excessive infiltration and inflow of water into sanitary sewer connections during peak storm events causing the conveyance system to surcharge, overflow or backup into basements.

(Ord. No. 450-O-09, § 2, 6-15-09)

Sec. 38-203. - Purpose.

This chapter integrates federal and state construction post-construction site stormwater water quality standards with duties to reasonably manage the quantity of water run-off for regional flood abatement. This chapter implements the Milwaukee Metropolitan Sewerage District rules on release rates for development creating more than a de minimis amount of new impervious surface, to reduce the probability of increased regional floods as the metropolitan area approaches full build-out forecast for 2050.

(Ord. No. 450-O-09, § 2, 6-15-09)

Sec. 38-204. - Stormwater quality and quantity management applicability.

- (a) The water quality management duties apply to property development or redevelopment disturbing one or more acres after March 10, 2003, and the water quantity management duties apply to development or redevelopment that involves a net increase of impervious surface by 5,000 square feet or more (0.11 acres) or when the demolition or construction during redevelopment or parking lot reconstruction will disturb an area larger than 2 acres, unless the site is exempt under subsection (c).
- (b) This article applies to post construction sites within the boundaries and jurisdiction of the village.
- (c) A site meeting any one of the following criteria is exempt from stormwater requirements:
 - (1) Water quality management duties do not apply if:
 - a. A redevelopment post-construction site with no increase in exposed parking lots or roads.
 - b. A post-construction site with less than ten percent 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.
 - 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, but not including the construction of any above-ground structures associated with utility construction.
 - (2) Water quantity management duties do not apply if:
 - a. Residential infill where the lot is five acres or less, the development is exclusively residential, the net increase in the area of impervious surface is less than 20 percent of the area of the site; and each boundary of the site is contiguous to: sites that contain earlier development served by sanitary sewers, streets, or public water supply when the governmental unit receives the plans for the new development or parkland; or other public land, a utility right-of-way, or a watercourse.
 - b. Recreational trails if the trail is less than or equal to ten feet in width and has a continuous pervious buffer at least five feet wide on each side, disregarding interruption by streets, driveways, or other impervious surfaces crossing the trail.
 - c. Public road and sidewalk construction with increased impervious surface that is less than one-half acre. If the construction or reconstruction of a public road or sidewalk will increase impervious surfaces by one-half acre or more, then water quantity management is necessary for the net increase in impervious surface.

- (d) Notwithstanding the applicability requirements in subsections (c)(1) and (c)(2), this article applies to post-construction sites of any size that, in the opinion of the village manager or the manager's designee, is likely to result in runoff that exceeds the capacity of the existing drainage facilities or the level of flooding protection in a watercourse that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (e) Comity. State agencies should design and incorporate best management practices for surface water quality and stormwater quantity management for new impervious surfaces. The runoff management techniques should be the same as flood abatement plans and techniques utilized by local governments in the watershed. The lead agency preparing an environmental assessment for a federal or state project shall identify the mitigating runoff management techniques to prevent increases in peak flood flows from new impervious areas.

(Ord. No. 450-O-09, § 2, 6-15-09; Ord. No. 655-O-16, § 1, 3-16-16)

Sec. 38-205. - Definitions.

Agricultural facilities and practices has the meaning given in Wis. Stats. § 281.16.

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

Best management practice or *BMP/Stormwater management facilities* means structural or non-structural measures, practices, techniques or devices employed to:

- (1) Avoid or minimize sediment or pollutants carried in runoff to waters of the state, or
- (2) Manage the rate or volume of runoff.

Business day means a day the office of the village manager or the manager's designee 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.

Critical time means the period starting at the time of peak rainfall intensity with a duration equal to the time of concentration of the watershed.

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

Development means construction of residential, commercial, industrial or institutional land uses and associated roads, parking lots, paved or unpaved storage areas including re-development.

Division of land means the creation from one parcel of five or more parcels or building sites of one and one-half or fewer acres each in area where such creation occurs at one time or through the successive partition within a five-year period.

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 NR § 102.11, Wis. Adm. Code.

Extraterritorial means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within one and one-half 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 percent 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 village manager or the manager's designee by the responsible party to assure that requirements of the ordinance 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.

Green Infrastructure means any combination of landscaping, facilities, or equipment that captures rain at or near the site where it falls by infiltration into the soil, evapotranspiration by plants, or storage for beneficial use or delayed discharge. Green infrastructure includes, but is not limited to: rain gardens; wetlands; green roofs; bioswales, including dry ponds or other detention facilities designed to increase infiltration; permeable surfacing; landscaping with deeply rooted plants; cisterns; rain barrels; trees; soil amendments; wet ponds, when project-specific modeling shows sufficient detention volume; and removal of structures or pavement to allow revegetation and infiltration.

Green roof means an engineered roofing system that includes vegetation planted in a growing medium above an underlying waterproof membrane material, designed to reduce the volume of stormwater runoff from building roofs.

Impervious surface means any pavement or structural element that prevents rain, surface water runoff, or melting snow from infiltrating into the ground below, including, but not limited to, roofs and paved roads, driveways, and parking lots.

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, bioretention area, or vegetated swale designed specifically to encourage infiltration, but does not include incidental natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or roadside 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.

Maintenance plan means an outlined of the long term operation, inspection, and maintenance requirements for storm water management facilities.

MEP or maximum extent practicable means a level of implementing best management practices in order to achieve a performance standard specified in this article 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 NR § 115.03(6), Wis. Adm. Code.

Outstanding resource waters means waters listed in NR § 102.10, Wis. Adm. Code.

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 village manager or the manager's designee 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 paid to the village manager or the manager's designee 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. Stats. § 283.01(13).

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Post-construction site means a construction site subject to regulation under this article V after construction is completed and final stabilization has occurred.

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 NR § 140.05(17), Wis. Adm. Code.

Public right-of-way means any road, alley, street, parking lot, sidewalk, plaza, mall, or pathway owned by or dedicated to a governmental unit.

Recreational trail means a path that is:

- (1) Distinctly set apart from a roadway, street, or sidewalk;
- (2) Designed for activities such as jogging, walking, hiking, bird-watching, bicycle riding, roller skating, or similar recreational activities not involving the use of motorized vehicles; and
- (3) Not a sidewalk according to Wis. Stats. § 340.01(58).

Regional flood means the peak flow and peak elevation of water with a one percent probability of occurring during any one year, considering rainfall time and intensity patterns, rainfall duration, area distribution, antecedent moisture, and snow melt. The common misnomer, "100-year flood or floodplain" implies a temporal element rather than a one in 100 random probability of the event.

Redevelopment means new construction, modification or replacement of older development.

Responsible party means any entity holding fee title to the property or other person, firm, association, or corporation 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 all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff;

- (2) Is not part of a combined sewer system;
- (3) Is not draining to a storm water treatment device or system; and
- (4) 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 village manager or the manager's designee 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.

Time of concentration means the time period for the furthest runoff from the outlet of a watershed to contribute to flow at the watershed outlet.

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 percent continually for at least 50 feet. If the slope of the land is 12 percent 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. Stats. § 281.01(18).

Water quality management means the stormwater standards and duties established under the Clean Water Act, 33 U.S.C. 1251 et. seq., parallel state law regulating the discharge of pollutants, and implementing regulations.

Water quantity management means stormwater duties and practices to abate peak flood flows during regional storm events pursuant to chapter 13 of the Milwaukee Metropolitan Sewerage District rules as implemented and enforced by this municipality.

(Ord. No. 450-O-09, § 2, 6-15-09; Ord. No. 596-O-14, §§ 4, 5, 9-2-14; Ord. No. 655-O-16, § 2, 3-16-16)

Sec. 38-206. - Technical standards.

The following methods shall be used in designing the water quality, water quantity, and infiltration components of storm water practices needed to meet the requirements of this article:

- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of NR ch. 151, Wis. Adm. Code.
- (2) 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 village manager or the manager's designee.
- (3) The rainfall depths to be used shall be the greater of those from the Rainfall Frequency Atlas of the Midwest, Bulletin 71 of the Illinois State Water Survey, 1992, by Floyd A. Huff and James R.

Angel or the NOAA Atlas 14. Please see Table 1 for these design rainfall depths for 24 hours. These rainfall depths shall supersede those presented in Chapter 13 of the MMSD Rules and Regulations, SEWRPC Technical Report No. 40 or the National Weather Service Technical Paper No. 40 (NWS TP-40).

Table 1	
Recurrence Interval (years) 24-Hour Duration	Design Rainfall Depths* (inches)
100	7.1
50	5.8
25	5.0
10	4.0
5	3.3
2	2.7
1	2.4

(4) The rainfall distribution curves to be used shall be the NRCS MSE3 Distribution per the MMSD.

(Ord. No. 450-O-09, § 2, 6-15-09; Ord. No. 655-O-16, § 3, 3-16-16)

Sec. 38-207. - Performance standards.

- (a) The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.
- (b) For projects that increase impervious surfaces by 10,000 square feet or greater a written stormwater management plan shall be completed by a professional engineer registered in the state in accordance with section 38-209 and shall be developed and implemented for each post-construction site and shall incorporate the requirements of this section.
- (c) For projects that increase impervious surfaces by 5,000 square feet but less than 10,000 square feet A written stormwater management plan shall be completed and shall be developed and implemented for each post-construction site and shall incorporate the requirements of this section. It does not need to be prepared by a professional Engineer.

(d) BMPs shall be located in an outlot and not in proposed lots, unless approved by the village manger or the manager's designee, for the following:

- (1) Single- and multi-family residential developments.
- (2) Commercial, industrial, institutional developments containing two or more lots.

The preliminary plat or certified survey map shall contain sufficient area to provide sizing.

(e) Maintenance of effort. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of this chapter in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of ss. NR 151.122 to 151.125, whichever are more stringent.

(f) The following performance standards shall be used to design stormwater facilities required under subsection (b):

(1) *Total suspended solids performance standard.*

- a. *Requirement.* BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site. BMPs shall be designed in accordance with Table 2., or to the maximum extent practicable as provided in subsection c. below. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Table 2. TSS Reduction Standards	
Development Type	TSS Reduction
New Development	80 percent
In-fill ≥ 5 acres	80 percent
In-fill < 5 acres on or after	
October 1, 2012	80 percent
Redevelopment	40 percent of load from parking areas and roads
In-fill < 5 acres and before October 1, 2012	40 percent

b. *Redevelopment.* Except as provided in NR § 151.121(5), the redevelopment total suspended solids reduction standard of table 2 applies to redevelopment.

c. *Maximum extent practicable.* If the design cannot meet a total suspended solids reduction performance standard of subsection (a), Table 2, the stormwater management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable. The village may not require any person to exceed the applicable total suspended solids reduction performance standard to meet the requirements of maximum extent practicable.

- d. *Off-site drainage.* When designing BMPs, runoff draining to the BMP from off site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.
- (2) *Water quantity and management of peak runoff.* (Projects that increase impervious surfaces by 10,000 square feet or greater)
- a. Water quantity BMPs may be implemented on either a watershed basis or an individual site basis. When implemented on a watershed basis, the BMPs implemented at a particular site shall comply with the findings of the relevant local or regional storm water management plan, rather than subsection (2)b.
 - b. Water quantity BMP release rates shall be determined by using the unit release rate method or the volumetric design procedure identified in Milwaukee Metropolitan Sewerage District Chapter 13 and must meet the following requirements:
 - 1. By design, BMPs shall be employed to maintain or reduce the one-year, 24-hour and the two-year, 24-hour post-construction peak runoff discharge rates to the one-year, 24-hour and the two-year, 24-hour pre-development peak runoff discharge rates respectively, or to the maximum extent practicable. The runoff curve numbers in Table 3 shall be used to represent the actual pre-development condition. These post-construction peak release rates must be less than subsections 2.i. and 2.ii. below.
 - 2. If the unit release rate methodology is used to design water quantity BMPs, the following applies:
 - i. For the 50-percent/two-year, 24-hour design storm, BMPs shall be designed to achieve a maximum post-development runoff release rate of 0.15 cubic feet per second per acre.
 - ii. One-percent/100-year, 24-hour design storm, BMPs shall be designed to achieve a post-development runoff release rate of five-tenths cubic feet per second per acre.
 - 3. If the volumetric design procedure is used to design water quantity BMPs, the following applies:
 - i. For one-percent/100-year, 24-hour design storm, BMPs shall be designed to store runoff generated by the development during the critical time period identified in water shed. The BMPs shall discharge a volume equal to or less than the 100-year predeveloped volume determined for the development.
 - ii. For 50-percent/two-year, 24-hour design storm, BMPs shall be designed to store runoff generated by the development during the critical time period identified in water shed. The BMPs shall discharge a volume equal to or less than the two-year pre-developed volume determined for the development.
 - c. The preliminary sizing for the water quantity control shall be in accordance with the MMSD Surface Water and Storm Water Rules Guidance Manual guidelines of three-tenths acre-feet of storage per acre of proposed impervious area unless a final design is submitted. The preliminary plat shall contain sufficient area to provide this sizing. The stormwater management facilities shall be located in an outlot and not in proposed lots.
 - d. 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 woodland, grass land or cropland, rather than using the respective TR-55 values, the runoff curve numbers in Table 3 shall be used.

<p>Table 3 Maximum Pre-Development Runoff</p>

Curve Numbers for Cropland Areas				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

- e. The analysis shall contain inflow and outflow hydrographs, basin routing and stage-storage-discharge graphs for the one-year, two-year, ten-year, 50-year and 100-year events.
- f. The design shall include a summary table with peak water surface elevations, peak discharge rates, and storage volumes at each of the required events.
- g. The design shall include configuration details of the stormwater management facilities. Computations and details of all discharge structures including emergency overflow provisions shall be incorporated.
- h. The pond slopes below normal water elevations shall be a maximum of 6:1 (H:V) for the first two feet of normal depth.
- i. The pond slopes between the normal water level and the design high water level shall be a maximum of 4:1 (H:V).
- j. The top width of the embankment (a berm or structure of earth built or created to retain water in a reservoir) shall be a minimum of ten feet wide.
- k. A two-foot freeboard shall be provided around the stormwater management facilities except at the emergency overflow structure.
- l. The design shall include an analysis of the path of the stormwater runoff that would be in excess of the 100-year recurrence event in the developed condition or in case of failure of the discharge structures.
- m. In conjunction with the requirements for landscaping of the developments, the following restrictions shall be adhered to. When developing the landscape plan, embankments (berms) shall be kept clear of woody vegetation. In addition, woody vegetation shall be kept clear from all areas within 25 feet of the discharge structures including the emergency overflow devices and from areas inside the basin which are below the design high water level.
- n. The proposed stormwater management practices shall not be located in a mapped regional floodplain, an area designated as regulated wetlands, or an area that is inundated in the 100-year event as determined by an engineering study. The only exceptions shall be those

detention/retention basins designated by a village approved watershed or sub-watershed stormwater management plan or local stormwater management plan that is regional in nature.

(3) *Water quantity and management of peak runoff.* (Projects that increase impervious surfaces by 5,000 square feet but less than 10,000 square feet)

a. Whenever development or redevelopment will increase impervious surface by an area equal to or greater than 5,000 square feet but less than 10,000 square feet, on a net basis, then the development or redevelopment shall include green infrastructure with a detention volume equal to one-half inch multiplied by the area of the net new impervious surface, except as provided in pars. b, c or d below.

1. Green infrastructure plans shall determine detention volume using the following procedures, by order of preference:

- i. Project specific modeling.
- ii. A calculating tool available at www.freshcoastguardians.com or subsequent locations identified by the MMSD.
- iii. The following table:

Green Infrastructure	Unit Detention Volume
Bioswale	7.5 gallons per square foot
Cistern	Capacity of cistern
Constructed wetlands	8.3 gallons per square foot
Green roof	1.0 gallons per square foot
Native landscaping	0.4 gallons per square foot
Porous pavement	3.0 gallons per square foot
Rain garden	4.4 gallons per square foot
Rain barrel	Capacity of barrel
Tree	25 gallons per tree

2. Green infrastructure shall be constructed according to conservation practice standards established by the WDNR and available at WDNR website or subsequent locations identified by the WDNR.

3. The new impervious surface or an equivalent impervious area shall drain to the green infrastructure installed to comply with section 13.302(3)(c) of the MMSD Chapter 13 Rules & Regulations.

b. A development or redevelopment project owner may trade green infrastructure retention volume to another development or redevelopment project owner to achieve compliance with this section on a net basis. If a development or redevelopment project owner has implemented more green infrastructure detention volume at a particular project than required by this section, then that development or redevelopment owner may trade this detention volume to another development or redevelopment project owner, who may proportionally reduce its detention volume. A development or

redevelopment project owner may use trading to comply with this subsection only if the District has reviewed the trade and approved the trade in writing.

- c. If the new impervious surface is within a residential subdivision for which the District has approved a stormwater runoff management plan, then no additional stormwater runoff management is required.
- d. Redevelopment may reduce the amount of green infrastructure than required when conditions make the compliance unreasonable. Relevant conditions include, but are not limited to: soil contamination, groundwater contamination, land use requirements, land availability, opportunities for off-site management, construction delays, marginal costs and the availability of financing. In this case, redevelopment shall achieve the greatest practicable reduction.

(4) *Water quantity and management of peak runoff.* (Redevelopment or parking lot reconstruction disturbing two acres or more)

- a. If redevelopment will disturb two acres or more but will not add one-half acre or more of impervious service, then a site development stormwater runoff management plan shall achieve the following runoff release rate reductions:

Area Disturbed by Demolition or Construction	Reduction to the Existing Runoff Release Rate
Between 2 acres and 3.5 acres	10%
From 3.5 acres to 5 acres	15%
Greater than 5 acres	20%

- b. Runoff Management is required for the reconstruction of Parking Lots disturbing two acres or more only when the parking lot will be reconfigured or re-contoured. Runoff management requirements do not apply to pavement maintenance activities such as sealing, milling & overlaying or pulverizing & compacting.

(5) *Infiltration performance standard.*

- a. *Requirement.* BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
 1. *Low imperviousness.* For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent 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 one percent of the post-construction site is required as an effective infiltration area.
 2. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent 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 two percent of the post-construction site is required as an effective infiltration area.

3. *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent 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 two percent of the post-construction site is required as an effective infiltration area.
- b. *Pre-development.* Pre-development condition shall be the same as specified in Table 3.
 - c. *Source areas.*
 1. *Prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions of subsection f.:
 - i. Areas associated with a tier 1 industrial facility identified in NR § 216.21(2)(a), including storage, loading, and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.
 - ii. Storage and loading areas of a tier 2 industrial facility identified in NR § 216.21(2)(b).
 - iii. Fueling and vehicle maintenance areas. Rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.
 2. *Exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:
 - i. Parking areas and access roads less than 5,000 square feet for commercial development.
 - ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions under subsection c.1. above.
 - iii. Except as provided under NR § 151.121(5), redevelopment post-construction sites.
 - iv. In-fill development areas less than five acres.
 - v. Roads in commercial, industrial, and institutional land uses, and arterial residential roads.
 - d. *Location of practices.*
 1. *Prohibitions.* Infiltration practices may not be located in the following areas:
 - i. Areas within 1,000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.
 - ii. 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, including multi-family residential, industrial, and institutional land uses or regional devices for one- and two-family residential development.
 - iii. Areas where contaminants of concern, as defined in NR § 720.03(2), are present in the soil through which infiltration will occur.

2. *Separation distances.*

- i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 4:

Table 4. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	
All Other Impervious Source Areas	3 feet or more	Filtering Layer

- ii. Notwithstanding subsection (b), applicable requirements for injection wells classified under NR ch. 815 shall be followed.

3. *Infiltration rate exemptions.* Infiltration practices located in the following areas may be credited toward meeting the requirement under the following conditions, but the decision to infiltrate under these conditions is optional:

- i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
 - ii. Where the least permeable soil horizon to five feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
- e. *Alternate use.* Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this subsection (3).
- f. *Groundwater standards.*

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 NR ch. 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 f.1. above, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- g. *Pretreatment.* 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 f. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales, or filter strips.
- h. *Maximum extent practicable.* Where the conditions of subsections c. and d. limit or restrict the use of infiltration practices, the performance standard of subsection 38-207(e)(3) shall be met to the maximum extent practicable.
- (4) *Protective areas performance standard.*
- a. *Definition.* In this section, "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert so that runoff cannot enter the enclosure at this location.
 1. For outstanding resource waters and exceptional resource waters, 75 feet.
 2. For perennial and intermittent streams identified on a U.S. geological survey 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 wetlands not subject to subsections a.5. or a.6. below, 50 feet.
 5. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
 6. For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include: degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
 7. In subsections 1. to 6. above, 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 NR § 103.03.
 8. Wetland boundary delineation shall be made in accordance with NR § 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill

has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

9. For concentrated flow channels with drainage areas greater than 130 acres, ten feet.
 10. Notwithstanding subsections a.1. to a.6. above, the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.
- b. *Applicability.* This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subparagraph (4)d. below.
- c. *Requirements.* The following requirements shall be met:
1. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the stormwater management plan shall contain a written, site-specific explanation.
 2. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.
 3. Best management practices such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.
- d. *Exemptions.* This section does not apply to any of the following:
1. Except as provided under NR § 151.121(5), redevelopment post- construction sites.
 2. Infill development areas less than five acres.
 3. Structures that cross or access surface waters such as boat landings, bridges, and culverts.
 4. Structures constructed in accordance with Wis. Stats. § 59.692(1v).
- (5) *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.
- (6) *Swale treatment for transportation facilities.*
- a. *Applicability .* Except as provided in subsection (d)(6)b., transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
- i. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 - ii. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than one and one-half feet per second based on a two-year, 24-hour design storm. If a swale of 200 feet in length cannot be designed with a flow velocity of one and one-half feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

- b. *Exemptions.* The village manager or the manager's designee may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 - i. An outstanding resource water.
 - ii. An exceptional resource water.
 - iii. Waters listed in § 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.
 - iv. Waters where targeted performance standards are developed under NR § 151.004, Wis. Adm. Code, to meet water quality standards.

(g) *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.
- (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) BMPs for water quantity management shall utilize the following techniques, in order of preference:
 - a. Preservation of the natural features of development sites, including natural storage and infiltration characteristics;
 - b. Preservation of existing natural streams, channels, and drainage ways;
 - c. Minimization of new impervious surfaces;
 - d. Use of vegetated stormwater control measures to treat runoff and conveyance of stormwater in open vegetated channels;
 - e. Construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites; and
 - f. Construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.

(h) *Location and regional treatment option.*

- (1) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system within the same watershed. Treatment of parking lot runoff on-site with vegetated stormwater control measures adjacent to parking areas is encouraged.
- (2) Runoff within a non-navigable drainage way that flows into a BMP, such as a wet pond, is not required to meet water quality performance standards unless designed to provide treatment.
- (3) Except as allowed under subsection (f)(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 article if:
 - a. The BMP was constructed prior to the effective date of this article and the BMP either received a permit issued under Wis. Stats. ch. 30, or the BMP did not require a Wis. Stats. 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 paragraph.
 - 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 NR ch. 103, Wis. Adm. Code and Wis. Stats. ch. 30.
- (6) The discharge of runoff from a BMP, such as a wet pond, or after a series of such BMPs is subject to this chapter.
- (7) The village manager or the manager's designee may approve off-site management measures provided that all of the following conditions are met:
 - a. The village manager or the manager's designee determines that the post-construction runoff is covered by a storm water management system plan that is approved by the village and that contains management requirements consistent with the purpose and intent of this article.
 - b. The off-site facility meets all of the following conditions:
 - i. The facility is in place.
 - ii. 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 article.
 - iii. 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 village manager or the manager's designee 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 village manager or the manager's designee. In determining the fee for post-construction runoff, the village manager or the manager's designee shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
 - (i) *Alternate requirements.* The village manager or the manager's designee may establish storm water management requirements more stringent than those set forth in this section if the village manager or the manager's designee determines that an added level of protection is needed to protect sensitive resources.
 - (j) *Credit for removal of impervious surfaces.*
 - (1) *Same site credit.* The administering authority may use the removal of pavement, covered structures or other impervious surfaces at the same property to calculate the net post construction impervious acreage and corresponding water quantity management duties. Credit may equal, but not be larger than the acreage of impervious surfaces removed when runoff release rates and detention are the best management practices utilized at the site. When best management practices with a higher order of preference are utilized in lieu of detention, equivalent credit may be granted as determined by the administering authority with the concurrence of the MMSD. Credit for reducing impervious surfaces at a site, not utilized by the development on the site, belongs to the administering authority and may be banked for allocation to other development within the watershed under subsection (h)(2).
 - (2) *Dispersed site in same watershed credit.* The administering authority may bank the removal of impervious surfaces, which individually must be one half acre or more, within the same watershed, where the volume, timing and peak flow of runoff will be distributed over the critical time sufficient to assure the level of protection provided by MMSD flood abatement projects will not be reduced. The administering authority may allocate banked credit to promote a policy of

smart growth. The total acreage banked or allocated, or both, shall be reported, by watershed or sub-watershed, annually to the MMSD for concurrence.

(Ord. No. 450-O-09, § 2, 6-15-09; Ord. No. 596-O-14, §§ 6, 7, 9-2-14; Ord. No. 655-O-16, §§ 4—12, 3-16-16)

Sec. 38-208. - 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 village manager or the manager's designee prior to commencing the proposed activity.
- (b) *Permit application and fees.* Any responsible party desiring a permit shall submit to the village manager or the manager's designee a permit application made on a form provided by the village manager or the manager's designee for that purpose.
 - (1) Unless specifically excepted, a permit application must be accompanied by a storm water management plan and a non-refundable permit administration fee.
 - a. No permit fee will be required for permit applications for projects that increase impervious surfaces by 5,000 square feet but less than 10,000 square feet
 - (2) The storm water management plan shall be prepared to meet the requirements of sections 38-207 and 38-209, a maintenance plan shall be prepared to meet the requirements of sections 38-210, the financial guarantee shall meet the requirements of section 38-211, and fees shall be those established by the village board of trustees as set forth in section 38-212.
- (c) *Review and approval of permit application.* The village manager or the manager's designee shall review any complete permit application that is submitted with a storm water management plan and the required fee, as follows:
 - (1) Within 30 business days of the receipt of a complete permit application, including all items as required by subsection (b), the village manager or the manager's designee shall inform the applicant whether the application and the plan are approved or disapproved based on the requirements of this article.
 - (2) If the storm water permit application and plan are approved, the village manager or the manager's designee shall issue the permit.
 - (3) If the storm water permit application or plan is disapproved, the village manager or the manager's designee shall detail in writing the reasons for disapproval.
 - (4) The village manager or the manager's designee may request additional information from the applicant. If additional information is submitted, the village manager or the manager's designee shall have 30 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
 - (5) Failure by the village manager or the manager's designee to inform the permit applicant of a decision within 30 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 article shall be subject to the following conditions, and holders of permits issued under this article shall be deemed to have accepted these conditions. The village manager or the manager's designee may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the village manager or the manager's designee to suspend or revoke this permit may be appealed in accordance with section 38-214.
 - (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 or identify non-structural storm water management measures, or both, in accordance with the approved storm water management plan and this permit.
 - (3) The responsible party shall notify the village manager or the manager's designee at least 14 business days before commencing any work in conjunction with the storm water management plan, and within seven business days upon completion of the storm water 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 village manager or the manager's designee so that practice installations can be inspected during construction.
 - (4) Practice installations required as part of this article shall be certified "as built" by a professional engineer. Completed storm water management practices must pass a final inspection by the village manager or the manager's designee to determine if they are in accordance with the approved storm water management plan and ordinance. The village manager or the manager's 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 comply with the maintenance requirements described in a stormwater maintenance plan.
 - (6) If so directed by the village manager or the manager's designee, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
 - (7) The responsible party shall permit property access to the village manager or the manager's designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 - (8) Where site development or redevelopment involves changes in direction, increases in the peak rate or the total volume of runoff, the village manager or the manager's designee may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
 - (9) Failure to comply with conditions set forth in the permit shall be subject to section 38-213, Enforcement and penalties.
- (e) *Permit conditions.* Permits issued under this subsection may include reasonable and necessary conditions established by village manager or the manager's designee in addition to the requirements needed to meet the performance standards in section 38-207 or a financial guarantee as provided for in section 38-211.
- Note: "Reasonable and necessary" is the Wis. Stats. § 283.63(1), standard for permit conditions and duties in Clean Water Act permits.
- (g) *Permit duration.* Permits issued under this section shall be valid from the date of issuance and shall be permanent unless:
- (1) Action occurs under section 38-213.
 - (2) Village manager or the manager's designee deems that the stormwater management facilities are no longer required.
- (h) *Acceptance and recording of permit requirements.* After the permit is issued, the permit and its conditions shall be accepted by the applicant and the owner(s) of the lands subject to the permit. The permit and the acceptance thereof by the applicant and land owner(s) shall be recorded at the county register of deeds as a land covenant for the land(s) subject to the permit.

Sec. 38-209. - Storm water management plan.

- (a) Plan requirements. The storm water management plan required under subsection 38-208(b) 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 100 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 one foot contours of the site at a scale not to exceed 1:100; topography and drainage network including enough of the contiguous properties 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 regional flood (the one percent probability storm event) floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to NR § 811.16, Wis. Adm. Code.
 - b. Hydrology and pollutant loading computations as needed to show compliance 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 ordinances.
 - c. One or more site maps at a scale of not less than one inch equals 100 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 one foot contours of the site at a scale not to exceed 1:100; 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 stormwater conveyance sections; location and type of all stormwater management conveyance and treatment practices, including vegetated stormwater control measures, cisterns or other rainwater harvesting systems, and green roof facilities, 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 section 38-207.
 - (6) A maintenance plan developed for the life of each storm water management facilities 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 village manager or the manager's designee to determine compliance of the proposed storm water management measures with the provisions of this article.
 - (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 article.
- (b) Green Infrastructure plans shall include sufficient information to allow the Village and MMSD to independently evaluate compliance with section 13.302(3)(c) of the MMSD Chapter 13 Rules & Regulations.
 - (1) A description of the project and the dimensions of the new impervious surface.
 - (2) A description of the proposed green infrastructure and its dimensions.
 - (3) One or more drawings showing the new impervious surface and the green infrastructure.
 - (4) Calculations showing the detention volume needed and the retention volume provided by the proposed green infrastructure.
 - (3) A maintenance Plan
- (c) Alternate requirements. The village manager or the manager's designee may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under subsection 38-207(e).
 - (d) A final analysis and report encompassing all the requirements listed above shall be submitted for approval. The report shall include design assumptions, computations, conclusions and solutions. Also, flow rates for each stormwater discharge point off the site shall be summarized in a table. The submittal shall coincide with the submittal of the proposed grading plan.
 - (e) If any change occurs which would affect the stormwater management facilities, the stormwater management report shall be similarly revised to account for the changes.

(Ord. No. 450-O-09, § 2, 6-15-09; Ord. No. 596-O-14, § 8, 9-2-14)

Sec. 38-210. - Maintenance.

- (a) Maintenance required for storm water management facilities shall be an agreement between the village manager or the manager's designee and the responsible party to provide for operation, inspection and maintenance of storm water management practices.

- (b) The operation, inspection and maintenance of the storm water management facilities shall be identified in a stormwater maintenance plan as required in section 38-209. The minimum stormwater maintenance requirements shall be provided by the village manager or the manager's designee to the responsible party to be implemented in the stormwater maintenance plan.
- (c) The responsible party shall maintain stormwater management facilities according to the stormwater maintenance plan to assure proper working condition and function performance in accordance with the approved designs.
- (d) The maintenance plan shall be part of the post-construction runoff permit. If deemed necessary by the village manager or the manager's designee, the maintenance plan shall also be outlined in a maintenance agreement, separate from the post-construction runoff permit if the BMP provides a public benefit.
- (e) The post-construction runoff permit containing the maintenance plan and maintenance agreement shall be filed with the 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.
- (f) Provisions. The maintenance plan shall contain the following information and provisions:
 - (1) Identification of the storm water management 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 practice.
 - (3) Identification of the responsible party(s) or organization responsible for long term maintenance of the storm water management facilities identified in the storm water management plan required under subsection 38-208(b).
 - (4) Requirement that the responsible party(s) or organization, shall maintain storm water management facilities in accordance with the schedule included in subsection (f)(2).
 - (5) Authorization for the village manager or the manager's designee, to access the property to conduct inspections of storm water management facilities as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (6) Agreement that the party designated under subsection (f)(3) as responsible for long term maintenance of the storm water management facilities, shall be notified by the village manager or the manager's designee of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the village manager or the manager's designee.
- (g) Any responsible party who does not comply with provisions outlined in the maintenance plan shall be subject to section 38-213, Enforcement and penalties.

(Ord. No. 450-O-09, § 2, 6-15-09)

Sec. 38-211. - Financial guarantee.

- (a) *Establishment of the guarantee* . The village manager or the manager's designee may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the village manager or the manager's designee. The financial guarantee shall be in an amount determined by the village manager or the manager's designee 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 village manager or the manager's designee 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 administering authority that the requirements of this article have not been met.

- (b) *Conditions for release* . The village manager or the manager's designee shall release the portion of the financial guarantee established under this section, less any costs incurred by the village manager or the manager's designee to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The village manager or the manager's designee may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(Ord. No. 450-O-09, § 2, 6-15-09)

Sec. 38-212. - Fee schedule.

See section 42-38 for a schedule of the fees referred to in other sections of this article.

(Ord. No. 450-O-09, § 2, 6-15-09)

Sec. 38-213. - Enforcement and penalties.

- (a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this article by the responsible party subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this article.
- (b) Failure to comply with the maintenance of stormwater management facilities required in the maintenance plan after the effective date of this article by the responsible party subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this article.
- (c) The village manager or the manager's designee shall notify the responsible party 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, or additional enforcement action which may be taken. Any technique that effectively provides actual and verifiable notice may be used.
- (d) If the violations are likely to result in damage to properties, public facilities, or waters of the state, the village manager or the manager's designee may enter the land and take corrective actions necessary to prevent such damage. The costs incurred by the village manager or the manager's designee plus interest and legal costs shall be paid by the responsible party. If the responsible party is the landowner or agent of the landowner of the land where the corrective actions are taken, the cost incurred by the village under this section may become a special charge against the affected property under Wis. Stats. § 66.0627.
- (e) If the village manager or the manager's designee determines that any person is in violation of this ordinance, post-construction runoff permit, or maintenance plan, the village manager or the manager's designee may issue a notice of violation, a stop work order, a cease and desist order, or revoke the permit, or refer the noncompliance to the village attorney for civil enforcement, penalties, injunctive orders or other appropriate relief.
- (f) Every violation of this article is a public nuisance. Any person who violates this article shall be subject to a forfeiture of not less than \$50.00 or more than \$10,000.00 per offense, together with the costs of prosecution. Each day each violation continues shall constitute a separate offense.

(Ord. No. 451-O-09, § 2, 6-15-09)

Sec. 38-214. - Appeals.

- (a) *Board of appeals*. The zoning board of appeals created pursuant to section 122-161 shall be the board of appeals under this article. Pursuant to Wis. Stats. § 61.354(4)(b), the board of appeals:

- (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the village manager or his designee in administering this article except for cease and desist orders obtained under subsection 38-213(e).
 - (2) Upon appeal, may authorize variances from the provisions of this article which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
 - (3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (b) *Who may appeal.* Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the village affected by any decision of the village manager or his designee.

(Ord. No. 450-O-09, § 2, 6-15-09)

Sec. 38-215. - Severability.

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

(Ord. No. 450-O-09, § 2, 6-15-09)

Secs. 38-216—38-299. - Reserved.



Village of Menomonee Falls
W156 N8480 Pilgrim Road
Menomonee Falls, WI 53051-3140
Telephone: (262) 532-4200

APPLICATION FOR GREEN INFRASTRUCTURE PERMIT

1. Parcel Description

Project Name: _____

Address: _____

Lot: _____ Block: _____ CSM: _____ Location: _____

Estimated area to be disturbed (SQFT) _____

Total area of impervious surface: Existing Proposed
(Paved surfaces, roofs, gravel, parking etc...) _____

2. Contact Information

Applicant: _____ Phone #: _____

Address: _____ Fax #: _____
Cell #: _____

Representative: _____ Phone #: _____

Address: _____ Fax #: _____
Cell #: _____

Applicant: The person or entity holding fee title to the property or their representative. The applicant shall sign the initial permit application form in accordance with the items 1 – 5 listed below, after which the applicant may provide written authorization for others to serve as the applicant’s representative: 1) In the case of a corporation, by a principal executive officer of at least the level of vice-president or by the officer’s authorized representative having overall responsibility for the operation of the site for which a permit is sought; 2) In the case of a limited liability company, by a member or manager; 3) In the case of a partnership, by the general partner; 4) In the case of a sole proprietorship, by the proprietor, or; 5) For a unit of government, by a principal executive officer, ranking elected official or other duly authorized representative.

Representative: The primary contact for the preparation of the Green Infrastructure plan. All plan review comments will be addressed to this Contact. This person must oversee and verify construction of all Green Infrastructure.

3. Application Requirements

The application to the Village of Menomonee Falls Engineering Department for a Green Infrastructure Permit must include submission of the following:

- Completed and Signed Green Infrastructure Permit Application
- Green Infrastructure Plan - Green Infrastructure plans shall include sufficient information to allow the Village and MMSD to independently evaluate compliance with section 13.302(3)(c) of the MMSD Chapter 13 Rules & Regulations
- Future Operation, Maintenance, and Inspection Schedule and Practices

Project Documentation:

(Check boxes below indicating that you have provided the following minimum information)

- A description of the project and the dimensions of the new impervious surface.
- A description of the proposed green infrastructure and its dimensions.
- One or more drawings showing the new impervious surface and the green infrastructure.
- Calculations showing the detention volume needed and the retention volume provided by the proposed green infrastructure.
- A maintenance Plan.

4. Application Submission, Review, and Approval Procedures

1. **Application Submittal:** The application to the Village of Menomonee Falls Engineering Department for a Green Infrastructure Permit must be submitted prior to or concurrently with any land use permit application. Submission of an application should be made to the Village of Menomonee Falls, Engineering Department, W156 N8480 Pilgrim Road, Menomonee Falls, WI 53051. For more information and copies of the Village of Menomonee Falls Stormwater Ordinance visit the village website at www.menomonee-falls.org or contact the Engineering Department at (262) 532-4400.
 2. **Review:** If the application is found to be complete, the Village of Menomonee Falls Engineering Department will submit the application and supporting documents to the MMSD for review and approval. A site green infrastructure plan is approved if the MMSD has not taken any of the following actions within 10 MMSD work days after receiving the plan: provided notice of disapproval, requested additional information or provided notice of a need for additional time to review the plan. The maximum additional time for review shall be 20 MMSD work days. The site green infrastructure plan is approved if the MMSD has not disapproved the plan within 20 MMSD work days after either the date when complete additional information is received or the date of a notice of a need for additional time for review.
 3. **Final Action:** The Village of Menomonee Falls Engineering Department's final action will be to issue the permit and record against the subject property. It will also be sent to the applicant and the appropriate Village Department(s) and Board(s).
-

5. Certification

I hereby certify that the information contained herein including all attachments is true, accurate and complete to the best of my knowledge. I acknowledge that the Village of Menomonee Falls and its authorized agent(s) will be rendering decisions on storm water management permit applications for the project within the Village of Menomonee Falls jurisdiction. I grant the Village of Menomonee Falls and their agent(s) permission to enter the property to review this application and make inspections during and after construction.

Engineer's Signature _____

Date _____

Print Name: _____

Applicant's Signature _____

Date _____

Print Name: _____

-----FOR OFFICE USE ONLY -----
-

Date Received: _____ Fee: NA

Plan Title: _____

Reviewed by: _____

Date: _____

File #: _____