

## **Chapter 297**

### **STORMWATER MANAGEMENT**

**[HISTORY: Adopted by the Town Board of the Town of Scott 8-8-2008. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Construction site erosion control — See Ch. 73.

Driveways — See Ch. 97.

Nonmetallic mining — See Ch. 182.

Natural and archaeological resource preservation — See Ch. 194.

Stormwater utility — See Ch. 301.

Subdivision of land — See Ch. 308.

Zoning — See Ch. 375.

#### **§ 297-1. Authority; administration; additional regulations.**

- A. This chapter is adopted by the Town of Scott pursuant to its police powers and under the authority granted by §§ 281.33 and 60.627, Wis. Stats. This chapter supersedes all conflicting and contradictory stormwater management regulations previously enacted under § 60.62 or 60.627, Wis. Stats. Except as specifically provided for in § 281.33, Wis. Stats., § 60.62, Wis. Stats., applies to this chapter and to any amendments to this chapter.
- B. The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the Town Board.
- C. The Town Board hereby designates the Zoning Administrator or designee to have the administrative authority to administer and enforce the provisions of this chapter.
- D. The requirements of this chapter do not preempt more stringent stormwater 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 §§ 281.16 and 283.33, Wis. Stats.
  - (2) Targeted nonagricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under § NR 151.004, Wis. Adm. Code.

#### **§ 297-2. Findings.**

The Town Board finds that uncontrolled stormwater runoff from land development activity has a significant detrimental impact upon water resources and the health, safety, and general welfare of the Town. Specifically, uncontrolled runoff can:

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

**§ 297-3. Purpose and intent.**

- A. Purpose. The purpose of this chapter is to set forth stormwater requirements and criteria that will prevent and control water pollution and diminish the threats to public health, safety, welfare, and aquatic life due to runoff of stormwater from development or redevelopment. Specific purposes are to:
  - (1) Further the maintenance of safe and healthful conditions.
  - (2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
  - (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- B. Intent. It is the general intent of the Town that this chapter achieve its purpose through:
  - (1) Regulating long-term, post-construction stormwater discharges from land development activities;
  - (2) Controlling the quantity, peak flow rates, and quality of stormwater discharges from land development activities;

- (3) Providing services to maintain and enhance the quality of life within the community. To this end, the Town will manage stormwater to protect, maintain, and enhance the natural environment, diversity of fish and wildlife, human life, property, and recreational use of waterways within the Town;
- (4) Achieving the stormwater performance standards set forth in this chapter through the preparation and implementation of comprehensive stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale where possible; and
- (5) Prescribing regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under § 281.16, Wis. Stats., for regional stormwater management measures and have been approved by the Town Board, it is the intent of this chapter that the approved plan be used to identify post-construction management measures acceptable for the community.

#### **§ 297-4. Definitions.**

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

**ADMINISTRATIVE AUTHORITY** — The governmental employee designated by the Town to administer this chapter. The Zoning Administrator or designee has been designated to have the authority to administer this chapter pursuant to § 297-1C.<sup>1</sup>

**APPLICANT** — Any landowner, land user(s), agent, or contractor responsible for submitting and carrying out the requirements of this chapter. "Applicant" shall also include any subsequent landowner to whom this chapter applies.

**BEST MANAGEMENT PRACTICE** — Structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in stormwater runoff, and to control and reduce the volume and rate of stormwater discharge to waters of the state.

**BUSINESS DAY** — A day that offices of the Town are routinely and customarily open for business.

**CEASE-AND-DESIST ORDER** — A Town order to halt land-developing activity that is being conducted without the required permit.

**COMMON PLAN OF DEVELOPMENT OR SALE** — All lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land-developing activities may take place at different times and on different schedules.

**CONNECTED IMPERVIOUSNESS** — An impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

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<sup>1</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**DEVELOPMENT** — Residential, commercial, industrial, or institutional land uses and associated roads.

**DESIGN RAINFALL EVENT** — A discrete rainstorm characterized by a specific duration, rainfall intensity, and return frequency.

**DISCHARGE VOLUME** — The quantity of runoff discharged from the land surface as the result of a rainfall event.

**DIVISION OF LAND** — The creation from a parcel of two or more parcels or building sites of 1.5 acres or fewer each in area where such creation occurs at one time or through successive divisions.

**EFFECTIVE INFILTRATION AREA** — The area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

**EROSION** — The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

**EXISTING LAND USE CONDITION** — The condition of the proposed development site and the adjacent properties that are present at the time of the stormwater permit application. This term applies only for the purpose of properly sizing stormwater detention ponds in accordance with § 297-6A and properly sizing stormwater conveyance systems in accordance with the requirements of § 297-6A(1).

**FEE IN LIEU** — A payment of money to the Town in place of meeting all or part of the stormwater performance standards required by this chapter.

**FUTURE PROPOSED LAND USE CONDITIONS** — Any proposed land alterations or disturbances, including, but not limited to, removal of vegetative cover, excavating, filling/grading, construction of buildings, roads, parking lots, paved storage areas, and similar facilities. (See also "post-development land use condition.")

**GROSS AGGREGATE AREA** — The total area, in acres, of all land located within the property boundary containing the land development activity.

**GROUNDWATER ENFORCEMENT STANDARD** — A numerical value expressing the concentration of a substance in groundwater which is adopted under § 160.07, Wis. Stats., and § NR 140.10, Wis. Adm. Code, or under § 160.09, Wis. Stats., and § NR 140.12, Wis. Adm. Code.

**GROUNDWATER PREVENTIVE ACTION LIMIT** — A numerical value expressing the concentration of a substance in groundwater that is adopted under § 160.15, Wis. Stats., and § NR 140.12 or NR 140.20, Wis. Adm. Code.

**IMPERVIOUS SURFACE** — A surface that does not allow infiltration during precipitation events. Rooftops, sidewalks, parking lots, and street surfaces are examples of impervious surfaces.

**INFILL AREA** — An undeveloped area of land located within existing development.

**INFILTRATION** — The process by which rain or surface runoff penetrates into the underlying soil.

**JOINT PLANNING AREA** — That area of land contained in both the Town of Scott and the City of Green Bay, Brown County, which is defined by the boundary agreement entered into by both municipalities on March 19, 2003. That agreement defines the boundaries of the Joint Planning Area and requires the creation of a Joint Planning Commission which has the responsibility of establishing a Master Land Use Plan and reviewing all new land uses proposed within its boundaries.<sup>2</sup>

**KARST FEATURE** — An area or superficial 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 swales.

**LAND DEVELOPMENT ACTIVITY** — Any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This term does not include agricultural cropping activities.

**MAINTENANCE AGREEMENT** — A legal document that is filed with the County Register of Deeds as a property deed restriction and which provides for long-term maintenance of stormwater management practices and notice of consequences for failure of maintenance.

**NATURAL WETLANDS** — An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include existing, mitigation, and restored wetlands.

**NEW DEVELOPMENT** — Development resulting from the conversion of previously undeveloped land or agricultural land uses.

**NONSTORMWATER DISCHARGE** — A discharge to the storm sewer system created by some process other than the runoff from precipitation.

**NONSTRUCTURAL MEASUREMENT** — A practice, technique, or measure to reduce the volume, peak flow rate, sediments, or pollutants in stormwater that does not require the design or installation of fixed stormwater management facilities.

**OFF-SITE** — Lands located outside the property boundary described in the permit application for land development activity.

**ON-SITE** — Lands located within the property boundary described in the permit application for land development activity.

**OTHER THAN RESIDENTIAL DEVELOPMENT** — Development of the following land uses: commercial, industrial, governmental, institutional, recreational, transportation, communication, and utilities.

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<sup>2</sup>. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**PEAK FLOW DISCHARGE RATE** — The maximum rate at which a unit volume of stormwater is discharged.

**PERMIT** — A written authorization made by the Town to the applicant to conduct land development activities.

**PERMIT ADMINISTRATION FEE** — A sum of money paid to the Town by the applicant for the purpose of recouping the expenses incurred by the Town in administering the permit.

**PERVIOUS SURFACE** — A surface that allows infiltration of precipitation or surface flow. Lawns, fields and woodlands are examples of pervious surfaces.

**POST-CONSTRUCTION STORMWATER DISCHARGE** — Any stormwater discharged from a site following the completion of land development activity and final site stabilization.

**POST-DEVELOPMENT LAND USE CONDITION** — The extent and distribution of land cover types, anticipated to occur under conditions of full development that will influence precipitation runoff and infiltration. (See also "future proposed land use conditions.")

**PRE-DEVELOPMENT LAND USE CONDITION** — The extent and distribution of land cover types present before the initiation of land development activity, assuming that all land uses prior to land development activity are managed in an environmentally sound manner.

**PRETREATMENT** — The treatment of stormwater prior to its discharge to wetlands, infiltration practices or the primary stormwater treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary stormwater practice.

**PUBLIC DRAINAGE SYSTEM** — All facilities owned and operated by the Town, Brown County, the Wisconsin Department of Transportation, or an adjoining municipality for the purpose of collecting, conveying, storing, treating, and properly disposing of stormwater runoff.

**REDEVELOPMENT** — Areas where new land development activity is replacing older development.

**RESIDENTIAL DEVELOPMENT** — Land development activity which is created to house people, including the residential dwellings as well as all affected portions of the development, including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single-family, multifamily, condominiums, and apartments.

**RESPONSIBLE PARTY** — Any person or entity holding fee title to the property or other person or entity contracted or obligated by agreement to implement and maintain post-construction stormwater BMPs.

**SITE** — The entire portion included in the legal description of the land on which the land development activity is proposed to take place.

**SITE RESTRICTION** — Any physical characteristic that limits the use of a stormwater best management practice.

**SLAMM** — A software program known as the "Source Loading and Management Model," designed to provide information on the sources of problem pollutants and the effectiveness of stormwater management practices that can control the problem pollutants at their sources and at outfalls.

**STOP-WORK ORDER** — An order issued by the Town that requires that all construction activity on the site to be stopped immediately.

**STORMWATER CONVEYANCE SYSTEM** — Any method employed to carry stormwater runoff from a development to waters of the state. Examples of methods include swales, channels, and storm sewers.

**STORMWATER MANAGEMENT MEASURE** — Structural or nonstructural practices that are designed to reduce stormwater runoff, sediment and pollutant loads, discharge volumes, and/or peak flow discharge rates.

**STORMWATER MANAGEMENT PLAN** — A document that identifies all actions that will be taken to reduce stormwater quantity, sediment and pollutant loads from the post-development land use condition to levels meeting the requirements of this chapter.

**STORMWATER RUNOFF** — That portion of precipitation that does not soak into the soil and flows off the surface of the land and into the natural or artificial stormwater conveyance network.

**TR-55** — The United States Department of Agriculture Natural Resources Conservation Service, Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

**WATERS OF THE STATE** — Any channel, ditch, stream, lake, or other body of water determined to be under State of Wisconsin authority as defined in § 281.01(18), Wis. Stats.

**WPDES** — The Wisconsin Pollutant Discharge Elimination System.

**WPDES STORMWATER PERMIT** — A permit issued by the Wisconsin Department of Natural Resources under § 283.33, Wis. Stats., that authorizes the point source discharge of stormwater to waters of the state and is regulated by Ch. NR 216, Wis. Adm. Code.

#### **§ 297-5. Applicability and jurisdiction; exemptions and exclusions.**

- A. **Applicability.** This chapter applies to land development activities that meet the applicability criteria specified in this section unless the activity is performed by a state agency exempt under § 227.01(1), Wis. Stats. The chapter also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules:

- (1) Residential land development with a gross aggregate area of one acre or more.
- (2) Residential land development with a gross aggregate area less than one acre, if there is at least 0.25 acre of impervious surfaces.
- (3) Land development, other than a residential land development, with a gross aggregate area of 1.0 acre or more, and any nonresidential land development which creates an impervious area of 0.5 acre or more.
- (4) A post-development land use condition or site that had a gross aggregate area of one acre or more of land development activity.
- (5) Any ditching or drainage of waterways or wetlands within the Joint Planning Area which would result in moving naturally flowing water off of the subject site faster than pre-development conditions would allow shall be reviewed by the Zoning Administrator or designee.<sup>3</sup>
- (6) Land development activity of any size that, in the opinion of the Town Zoning Administrator or designee, is likely to result in stormwater runoff which causes undue channel erosion, increases water pollution or endangers downstream property or public safety.<sup>4</sup>

B. Exemptions. A site that meets any of the following is exempt from the requirements of this chapter:

- (1) A redeveloped post-development land use site with no increase in impervious surfaces.
- (2) A post-development land use condition with less than ten-percent connected imperviousness based on complete development of the post-development land use condition, provided the cumulative area of all impervious surfaces has less than one acre.
- (3) Nonpoint discharges from agricultural facilities and practices.
- (4) Nonpoint discharges from silviculture activities.
- (5) Routine maintenance for project sites under a gross aggregate area of one acre of land development activity if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (6) Underground utility construction such as water, sewer and fiber optic lines. This exemption does not apply to the construction of any aboveground structures associated with utility construction.
- (7) Where the entire site flows to a regional stormwater facility.
- (8) Mill and crush operations.

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<sup>3</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

<sup>4</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



- C. Jurisdiction. This chapter applies to post-construction sites within the boundaries and jurisdiction of the Town of Scott, as well as all lands located within the extraterritorial plat approval jurisdiction of the Town of Scott, even if plat approval is not involved.
- D. Exclusions. This chapter is not applicable to activities conducted by a state agency, as defined under § 227.01(1), Wis. Stats., but also including the Office of District Attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under § 281.33(2), Wis. Stats.

**§ 297-6. Stormwater management standards.**

- A. Stormwater discharge quantity. Unless otherwise provided for in this chapter, all land development activities subject to this chapter shall establish on-site best management practices (BMPs) to maintain pre-development peak flow rates of stormwater discharged from the site, for post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with one acre or more of land disturbance. Infiltration of stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.
  - (1) All peak flow rates and volumes for pre- and post-development shall be calculated using procedures described in TR-55 for design rainfall events with recurrence intervals of two years, 10 years, and 100 years. The pre-development land use condition shall assume "good hydrologic conditions" for land cover as described in the TR-55 method of calculation. The post-development land use condition shall assume "good hydrologic conditions" for land cover as described in the TR-55 method of calculation for the proposed land use cover types. Natural Resources Conservation Service (NRCS) curve numbers as identified in TR-55 shall not exceed the following for the given soil hydrologic groups:

<b>Soil hydrologic group</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
NRCS curve number for meadow	30	58	71	78
NRCS curve number for woodland	30	55	70	77
NRCS curve number for grain	55	68	77	80
NRCS curve number for pasture	39	61	74	80
NRCS curve number for paved roadways with open ditches <sup>1</sup>	83	89	92	93
NRCS curve number for commercial business districts <sup>1</sup>	89	92	94	95
NRCS curve number for industrial districts <sup>1</sup>	81	88	91	93

**NOTES:**

<sup>1</sup> For use with redevelopment projects only.

- (2) For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce peak post-development discharge rates using BMPs from the Town of Scott Stormwater Reference Guide. These sites are not required to satisfy a numeric stormwater management standard.
- (3) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date of this chapter are required to satisfy the stormwater management standards.<sup>5</sup>
- (4) On-site BMPs shall be designed so that the development shall not increase peak flow discharge rates of stormwater runoff from that which would have resulted from the same storm occurring over the site with the land in its pre-development land use condition. Calculations for determining peak flow discharge rates for BMP sizing shall be based on the existing or future proposed land use conditions for off-site areas (whichever results in the highest peak flows) and the future proposed land use conditions for the on-site areas.
- (5) All stormwater conveyance systems within the proposed development receiving surface runoff from the proposed development shall be designed to completely contain peak discharge storm flows as described in Subsection A(5)(a), (b), (c) and (d). Calculations for determining peak flow discharge rates for conveyance system sizing shall be based on the existing or future proposed land use conditions for off-site areas (whichever results in the highest peak flows), and the future proposed land use conditions for the on-site areas.
  - (a) For publicly owned or maintained open channel conveyance systems, the peak flow from the twenty-five-year storm shall be completely contained within the channel banks.
  - (b) For publicly owned or maintained storm sewer pipes, the peak flow from the ten-year storm shall be completely contained within the pipes with no surcharging or pressurized flow.
  - (c) Private storm sewer pipes shall be constructed to contain the peak flow from the five-year storm with no surcharging or pressurized flow.
  - (d) The site shall be designed so that on-site areas can safely pass a design rainfall event with a recurrence interval of 100 years without damage to people or property. In addition, the site shall not block or impede the flow of water from off-site areas.<sup>6</sup>
- (6) All discharges will be restricted to public drainage systems (including storm sewers and ditches) or to waters of the state. It shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other

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<sup>5</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

<sup>6</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

necessary property interests concerning flowage of water from the proposed development onto private lands when the water had not done so prior to the development.

- (7) Increases or decreases in the hydrology of natural wetlands shall be minimized to the extent practical. Where such changes are proposed, the impact of the proposal on wetland shall be assessed and shall meet the requirements of Ch. NR 103, Wis. Adm. Code.
  - (8) An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of nonerosive discharge velocities and reasonable downstream conveyance.
  - (9) Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of this subsection, provided that the transportation facility is not part of a larger common plan of development or sale:
    - (a) A transportation facility where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving surface water by more than 0.01 foot for the two-year, twenty-four-hour storm event.
    - (b) A highway reconstruction site.
    - (c) A transportation facility that is part of a redevelopment project.
- B. Stormwater discharge quality. Unless otherwise provided for in this chapter, all land development activities subject to this chapter shall establish on-site management practices to control the quality of stormwater discharged from the site. For post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with one acre or more of land disturbance, the following are required:
- (1) Stormwater management measures for the land development activities shall be designed to remove on an average annual basis a minimum of 80% of the total suspended solids load from the proposed land development when compared to the proposed on-site development without stormwater management measures.
  - (2) Stormwater management measures for redevelopment shall be designed to remove on an average annual basis a minimum of 40% of the total suspended solids load from the proposed land development when compared to the proposed land development without stormwater management measures.
  - (3) Stormwater management measures for in-fill areas of land with a gross aggregate area of less than five acres in size shall be designed to remove on an average annual basis a minimum of 40% of the total suspended solids load from the proposed on-site development when compared to the proposed on-site development without stormwater management measures, if within 10 years after October 1, 2002, and 80% of the total suspended solids load thereafter.

- (4) The effectiveness of the stormwater management measures shall be evaluated using criteria in the current version of SLAMM (Source Loading and Management Model).
- C. Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, except as provided in Subsection C(8) through (11).
  - (1) For residential developments with 20,000 square feet or more of impervious surface disturbance and residential developments with one acre or more of land disturbance, one of the following shall be met:
    - (a) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
    - (b) Infiltrate 25% of the post-development runoff from the two-year, twenty-four-hour design storm with a Type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
  - (2) For nonresidential developments with 20,000 square feet or more of impervious surface disturbance and nonresidential developments with one acre or more of land disturbance, including commercial, industrial and institutional development, one of the following shall be met:
    - (a) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
    - (b) Infiltrate 10% of the runoff from the two-year, twenty-four-hour design storm with a Type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
  - (3) Pre-development condition shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meanings of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However,

when pre-development land cover is cropland, rather than using TR-55 values for cropland, the following runoff curve numbers shall be used:

**Maximum Pre-Development Runoff Curve Numbers — Cropland**

<b>Hydrologic Soil Group</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
Runoff curve number	56	70	79	83

- (4) For residential and nonresidential developments with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the Town of Scott Stormwater Reference Guide. These sites are not required to satisfy a numeric performance standard.
- (5) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date of this chapter are required to satisfy the performance standards within Subsection B(1), (2) and (3).<sup>7</sup>
- (6) The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- (7) 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 C(11). Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- (8) Exclusions. Infiltration of runoff from the following areas is prohibited from meeting the infiltration requirements of this Subsection C:
  - (a) Areas associated with Tier I industrial facilities identified in § NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
  - (b) Storage and loading areas of Tier II industrial facilities identified in § NR 216.21(2)(b), Wis. Adm. Code.
  - (c) Fueling and vehicle maintenance areas.
  - (d) Areas within 1,000 feet upgradient or within 100 feet downgradient of karst features.
  - (e) Areas with less than three feet of separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subsection does not prohibit infiltration of roof runoff.

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<sup>7</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (f) Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet of separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
  - (g) Areas within 400 feet of a community water system well as specified in § NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in § NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
  - (h) Areas where contaminants of concern, as defined in § NR 720.03(2), Wis. Adm. Code, are present in the soil through which infiltration will occur.
  - (i) Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three-foot soil layer with 20% fines or greater; or at least a five-foot soil layer with 10% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subsection does not prohibit infiltration of roof runoff.
- (9) Exemptions. Infiltration of runoff from the following areas is not required to meet the infiltration requirements of this Subsection C:
  - (a) Areas where the infiltration rate of the soil is less than 0.6 inch per hour measured at the site.
  - (b) Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
  - (c) Redevelopment and routine maintenance areas.
  - (d) In-fill areas less than five acres.
  - (e) Infiltration areas during periods when the soil on the site is frozen.
  - (f) Roads in commercial, industrial and institutional land uses, and arterial residential roads.
  - (g) Highways, provided the transportation facility is not part of a larger common plan of development or sale.
- (10) Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this subsection.
- (11) Infiltration systems.
  - (a) Infiltration systems designed in accordance with this subsection shall, to the extent technically and economically feasible, minimize the level of

pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Ch. NR 140, Wis. Adm. Code. 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.

- (b) Notwithstanding Subsection C(11)(a), the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

D. Protective areas.

- (1) "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 subsection, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
  - (a) For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in § NR 103.04, Wis. Adm. Code, 75 feet.
  - (b) For perennial and intermittent streams identified on a United States Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
  - (c) For lakes, 50 feet.
  - (d) For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins.
  - (e) For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
  - (f) In Subsection D(1)(a), (d) and (e), 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, Wis. Adm. Code.
  - (g) For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

- (2) Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with § NR 103.08(lm), Wis. Adm. Code. This Subsection D does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
- (3) This Subsection D applies to post-construction sites located within a protective area, except those areas exempted pursuant to Subsection D(6) below.
- (4) The following requirements shall be met:
  - (a) Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
  - (b) Where land-disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Nonvegetative 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.
  - (c) Best management practices such as filter strips, swales, or wet detention basins that are designed to control pollutants from non-point sources may be located in the protective area.
- (5) A protective area established or created after the adoption date of this chapter shall not be eliminated or reduced, except as allowed in Subsection D(6)(b), (c) or (d) below.<sup>8</sup>
- (6) Exemptions. The following areas are not required to meet the protective area requirements of this Subsection D:
  - (a) Redevelopment and routine maintenance areas, provided the minimum requirements within Subsection D(4) above are satisfied.
  - (b) Structures that cross or access surface waters such as boat landings, bridges and culverts.
  - (c) Structures constructed in accordance with § 59.692(1v), Wis. Stats.

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<sup>8</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



- (d) Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- E. Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum contamination within runoff, such that the runoff that enters the Town's storm sewer system or waters of the state contains no visible petroleum sheen.
- F. Swale treatment for transportation facilities. This section is not applicable to transportation facilities that are part of a larger common plan of development or sale.
  - (1) Applicability. Except as provided in Subsection F(2), 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:
    - (a) Be vegetated. However, where appropriate, nonvegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
    - (b) Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a two-year, twenty-four-hour design storm or a two-year storm with a duration equal to the time of concentration, as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.
  - (2) Exemptions. The Zoning Administrator or designee may, consistent with water quality standards, require other provisions of this section to 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:<sup>9</sup>
    - (a) An outstanding resource water.
    - (b) An exceptional resource water.
    - (c) Waters listed in Section 303(d) of the Federal Clean Water Act that are identified as impaired, in whole or in part, due to nonpoint source impacts.
    - (d) Waters where targeted performance standards are developed under § NR 151.004, Wis. Adm. Code, to meet water quality standards.
- G. Exemptions. The Zoning Administrator or designee may waive the minimum requirements for on-site stormwater management practices established in this

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<sup>9</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

section upon written request of the applicant, provided that at least one of the following conditions applies:<sup>10</sup>

- (1) Provisions are made to manage stormwater by an off-site facility. This requires that the off-site facility is in place, is designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices meeting the requirements of this chapter, and has a legally obligated person or entity responsible for long-term operation and maintenance of the stormwater practice pursuant to a maintenance agreement recorded in the Register of Deeds.
- (2) The Town Board finds that meeting the minimum on-site management requirements is not technically feasible due to site restrictions.
- (3) Agricultural production areas with less than 100,000 square feet of impervious surface disturbance.
- (4) Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any aboveground structures associated with utility construction.
- (5) The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale:
  - (a) Reconditioning or resurfacing of a highway.
  - (b) Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within § NR 151.24(6), Wis. Adm. Code, apply to minor reconstruction of a highway.
  - (c) A redevelopment transportation facility with no increase in exposed parking lots or roads.
  - (d) A transportation facility with less than 10% connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre.
  - (e) Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (6) General considerations for on-site and off-site stormwater management measures. The following considerations shall be observed in managing runoff:
  - (a) Natural topography and land cover features such as natural swales, natural depressions, native soil-infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

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<sup>10</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (b) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (7) Location and regional treatment option.
  - (a) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system.
  - (b) Post-construction runoff within a nonnavigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this chapter. Post-construction BMPs may be located in nonnavigable surface waters.
  - (c) Except as allowed under Subsection G(7)(d), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
  - (d) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this chapter if:
    - [1] The BMP was constructed prior to the effective date of this chapter and the BMP either received a permit issued under Ch. 30, Wis. Stats., or the BMP did not require a Ch. 30, Wis. Stats., permit; and
    - [2] The BMP is designed to provide runoff treatment from future upland development.
  - (e) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this subsection.
    - [1] To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
    - [2] 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 Ch. NR 103, Wis. Adm. Code, and Ch. 30, Wis. Stats.
  - (f) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.
  - (g) The Zoning Administrator or designee may approve off-site management measures, provided that all of the following conditions are met:
    - [1] The Zoning Administrator or designee determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the Town of Scott and that

contains management requirements consistent with the purpose and intent of this chapter.

[2] The off-site facility meets all of the following conditions:

[a] The facility is in place.

[b] The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this chapter.

[c] The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(h) Where a regional treatment option exists such that the Zoning Administrator or designee exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Zoning Administrator or designee. In determining the fee for post-construction runoff, the Zoning Administrator or designee shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(8) Alternate requirements. The Zoning Administrator or designee may establish stormwater management requirements more stringent than those set forth in this section if the Zoning Administrator or designee determines that an added level of protection is needed to protect sensitive resources. Also, the Zoning Administrator or designee may establish stormwater management requirements less stringent than those set forth in this section if the Zoning Administrator or designee determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by the Wisconsin Department of Natural Resources under Ch. NR 151, Wis. Adm. Code.

H. Fee in lieu of on-site stormwater management practices. Where the Zoning Administrator or designee waives all or part of the minimum on-site stormwater management requirements under this section or where the waiver is based on the provision of adequate stormwater facilities provided by the Town downstream of the proposed land development, as provided for under § 297-5B(7), the applicant shall be required to pay a fee in an amount determined by the Town. In setting the fee for land development projects, the Town shall consider an equitable distribution of cost of administration, land, design, inspection, surveying, and construction.<sup>11</sup>

#### **§ 297-7. Permitting requirements, procedures and fees.<sup>12</sup>**

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<sup>11</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

<sup>12</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- A. Permit required. No landowner or other person or entity may undertake a land development activity subject to this chapter without receiving a permit from the Zoning Administrator or designee prior to commencing the proposed activity.
- B. Permit application and fee. Unless specifically exempted by this chapter, any landowner or other person or entity desiring a permit shall submit to the Zoning Administrator or designee a permit application.
  - (1) Unless otherwise exempted by this chapter, a permit application must be accompanied by the following in order for the permit application to be considered by the Zoning Administrator or designee:
    - (a) A stormwater management plan;
    - (b) A maintenance plan and a maintenance agreement;
    - (c) Any easements which may be required over downstream property;
    - (d) A copy of plans and specifications for all stormwater facilities;
    - (e) Certification by a professional engineer registered in the State of Wisconsin;
    - (f) Any payment of fees in lieu as provided for under § 297-6H;
    - (g) A nonrefundable permit administration fee; and
    - (h) Performance security, if applicable by § 297-10.
  - (2) The stormwater management plan shall be prepared to meet the requirements of § 297-8 of this chapter and the maintenance agreement shall be prepared to meet the requirements of § 297-9 of this chapter.
  - (3) Review fees shall be those incurred by the Town and billed to the applicant for actual expenses charged to the Town by its consultants to review the stormwater management plan and administrative costs incurred by the Town.
- C. Review and approval of permit application. The Zoning Administrator or designee shall review any permit application that is submitted with the items required under Subsection B(1). The following procedure shall apply:
  - (1) Within 30 business days of the receipt of a complete permit application, including all documents as required by Subsection B(1), the Zoning Administrator or designee shall inform the applicant whether the application, stormwater management plan and other required documents are approved or disapproved. The Zoning Administrator or designee shall base the decision on requirements set forth in §§ 297-6, 297-8 and 297-9 of this chapter.
  - (2) If the stormwater permit application, stormwater management plan, and other documents are approved, the Zoning Administrator or designee shall issue the permit.

- (3) If the stormwater permit application, stormwater management plan and other documents are disapproved, the applicant may revise the application and other documents.
- (4) If additional information is submitted by the applicant, the Zoning Administrator or designee shall have 30 business days from the date the additional information is received to inform the applicant that the application, stormwater management plan and other documents are either approved or disapproved.
- (5) Failure by the Zoning Administrator or designee to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed approval of the submittal. Upon notice to the applicant prior to expiration of the thirty-business-day period, the Zoning Administrator or designee may extend the time for review of the application beyond 30 business days for complex projects.

D. Permit conditions. All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The Zoning Administrator or designee may suspend or revoke a permit for violation of a permit condition upon written notification to the permittee. An action by the Zoning Administrator or designee to suspend or revoke this permit may be appealed in accordance with § 297-12 of this chapter.

- (1) Compliance with this permit does not relieve a permittee from the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (2) A permittee shall design, install, and maintain all structural and nonstructural stormwater management measures in accordance with the approved stormwater management plan and other documents.
- (3) A permit holder shall notify the Zoning Administrator or designee at least three business days before commencing any work in conjunction with the stormwater management plan and within three business days upon completion of the stormwater management practices. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the Zoning Administrator or designee so that practice installations can be inspected during construction.
- (4) Completed stormwater management practices must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and this chapter. The Zoning Administrator or designee or other competent professionals identified by the Zoning Administrator or designee shall make the inspection. The Zoning Administrator or designee shall notify a permittee in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

- (5) A permittee shall submit any proposed modifications to an approved stormwater management plan in writing to the Zoning Administrator or designee at least 30 days prior to execution. The Zoning Administrator or designee may require that a proposed modification be submitted as an original permit application for approval prior to incorporation into the stormwater management plan and execution.
  - (6) A permittee shall maintain all stormwater management practices specified in the approved stormwater management plan until the practices either become the responsibility of the Town or are transferred to subsequent private owners as specified in the approved maintenance agreement.
  - (7) The Zoning Administrator or designee shall assure that any work or operations necessary to bring stormwater management measures into conformance with an approved stormwater management plan are performed. All costs incurred by the Town shall be paid by the permittee. Any costs not paid timely by the permittee shall be placed upon the tax roll as a special charge against the property pursuant to § 66.0627, Wis. Stats.
  - (8) If so directed by the Zoning Administrator or designee, a permittee shall repair, at the permittee's expense, all damage to adjoining Town facilities and drainageways caused by stormwater runoff where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
  - (9) A permittee shall permit property access to the Zoning Administrator or designee and his assignees for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
  - (10) Where a stormwater management plan involves direction of some or all runoff off-site, it shall be the responsibility of the permittee to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water pursuant to § 297-6A(4). Issuance of this permit does not create or affect any such rights.
  - (11) A permittee is also subject to the enforceable actions detailed in § 297-11 of this chapter if the permittee fails to comply with the terms of a permit.
- E. Permit duration. Permits issued under this section shall be valid from the date of issuance through the date the Zoning Administrator or designee notifies the permittee that all stormwater management practices have passed the final inspection or the permit is suspended or revoked pursuant to § 297-11 of this chapter.

**§ 297-8. Stormwater management plans.**

- A. Plan requirements. All site investigations, plans, designs, computations, and drawings shall be certified by a registered professional engineer in the State of Wisconsin to be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by this chapter. The stormwater management plan required under § 297-7 of this chapter shall contain the following:

- (1) Name, address and phone number for the landowner, the developer, the project engineer and person(s) responsible for maintenance of the design.
- (2) A legal description of the property to be developed.
- (3) Pre-development land use conditions, including:
  - (a) Site map(s), location, soil type(s), existing cover and condition, contours, existing drainage, watershed boundary, and stormwater ditches on or adjacent to the site.
  - (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 land use conditions, including:
  - (a) Explanation of provisions to preserve/use natural topography and undisturbed land in order to minimize changes in peak flow and/or volume of runoff for post-construction sites.
  - (b) Explanation of any restrictions on stormwater in the development area.
  - (c) Site map(s) showing post-construction pervious areas, including vegetative cover type and condition, impervious surfaces, post-construction contours and drainage, drainage easements, maintenance agreements and easements, stormwater conveyance systems, on- and off-site drainage area, watershed boundaries, and any changes to lakes, streams, wetlands, channels, ditches, and watercourses on or adjacent to the site.
  - (d) Hydrology and pollutant loading as required.
  - (e) Results of any soil or groundwater testing required for the placement of any BMP designs, including detailed drawings and cross-sections of stormwater conveyance systems.
  - (f) Separation distances. Stormwater management practices shall be adequately separated from wells to prevent contamination of drinking water.
- (5) Installation schedule and maintenance plans for BMPs.
- (6) Cost estimates, site investigations, plans, designs, computations, and drawings for any BMPs.
- (7) Any other information requested by the Town.



- B. Exceptions. The Zoning Administrator or designee may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under § 297-6D of this chapter.<sup>13</sup>

**§ 297-9. Maintenance agreements.**

- A. Maintenance agreement required. The maintenance agreement required for stormwater management practices under § 297-7B of this chapter shall be an agreement between the Town and the permittee. The agreement shall be recorded as a property deed restriction by the permit applicant with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the stormwater management practices.
- B. Agreement provisions. The maintenance agreement shall contain the following provisions:<sup>14</sup>
- (1) The landowner shall maintain stormwater management practices in accordance with the stormwater practice maintenance provisions contained in the approved stormwater management plan submitted under § 297-7B of this chapter.
  - (2) The Zoning Administrator or designee is authorized to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan.
  - (3) The Zoning Administrator or designee shall maintain public records of the results of the site inspections, shall inform the landowner or other person or entity responsible for maintenance of the results of any inspection, and shall specifically indicate any corrective actions required to bring the stormwater management practice into proper condition and a reasonable time frame in which the corrective action must be taken.
  - (4) The Zoning Administrator or designee is authorized to perform the corrective actions identified in the inspection report if the landowner or other person or entity fails to make the required corrections in the specified time period. The Town shall charge the landowner for the cost of such work and, upon failure to receive payment for such work, shall levy a special charge on the property pursuant to § 66.0627, Wis. Stats.
- C. Alternate requirements. The Zoning Administrator or designee may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under § 297-6G(7) or for applicants seeking a

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<sup>13</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

<sup>14</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.<sup>15</sup>

- D. Termination of agreement. The maintenance agreement shall be terminated at such time that responsibility for maintenance of the stormwater management practice is legally transferred to the Town or agency acceptable to the Town, through a written, binding agreement. The termination date of the maintenance agreement required under Subsection A shall be the date upon which the legal transfer of maintenance responsibility to the Town or other agency is made effective.

**§ 297-10. Financial guaranty.**<sup>16</sup>

- A. Establishment of the guaranty. The Zoning Administrator or designee may require the submittal of a financial guaranty, the form and type of which shall be acceptable to the Zoning Administrator or designee. The financial guaranty shall be in an amount determined by the Zoning Administrator to be 125% of the estimated cost of construction. The financial guaranty shall give the Zoning Administrator or designee the authorization to use the funds to complete the project if the landowner defaults or does not properly implement the approved stormwater management plan.
- B. At the time that maintenance is necessary for the stormwater management practices, the designated party shall perform the maintenance as required by the maintenance agreement under § 297-9 of this chapter.
- C. Conditions for release. Conditions for release of the financial guaranty are as follows:
  - (1) The Zoning Administrator or designee shall release the portion of the financial guaranty established to assure installation of stormwater practices, minus any costs incurred by or on behalf of the Zoning Administrator or designee to complete installation of stormwater practices, upon submission of "as-built plans" by a licensed professional engineer. The Zoning Administrator or designee may make provisions for a partial pro-rata release of the financial guaranty based on the completion of stages of the stormwater management system.
  - (2) The Zoning Administrator or designee shall determine if the responsible party has performed the maintenance of the stormwater management practices in accordance with the maintenance agreement. The maintenance shall be performed to the satisfaction of the Zoning Administrator or designee.
- D. Alternate requirements. The Zoning Administrator or designee may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under § 297-6G(7) or for applicants seeking a

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<sup>15</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

<sup>16</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

**§ 297-11. Enforcement; violations and penalties.** <sup>17</sup>

- A. Any land development activity initiated after the effective date of this chapter by any person or entity subject to the provisions of this chapter shall be deemed a violation unless conducted in accordance with said provisions.
- B. The Zoning Administrator or designee may issue a citation or a notice of violation in order to correct any violation of this chapter. A notice of violation shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.
- C. Upon receipt of written notification from the Zoning Administrator or designee, a permittee shall, within seven days, correct work that does not comply with the stormwater management plan or other provisions of the permit. A permittee shall make corrections as necessary to meet the specifications and schedule set forth by the Zoning Administrator or designee in the notice.
- D. The Zoning Administrator or designee may issue a stop-work order on any land development activity that is taking place in violation of this chapter.
- E. The Zoning Administrator or designee may suspend or revoke a permit issued under this chapter for noncompliance with the provisions of this chapter.
- F. Any permit revocation or stop-work order shall remain in effect unless retracted by the Zoning Administrator or designee or by a court of competent jurisdiction.
- G. Any person or entity who or which fails to comply with any provision of this chapter or order issued hereunder shall be subject to a forfeiture of not less than \$100 nor more than \$10,000 per offense.<sup>18</sup>
- H. When the Zoning Administrator or designee determines that a permittee has failed to follow practices set forth in the stormwater management plan submitted and approved pursuant to § 297-7 of this chapter, or has failed to comply with schedules set forth in said stormwater management plan, the Zoning Administrator or designee or a party designated by the Zoning Administrator or designee may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with the requirements of the approved stormwater management plan. The Zoning Administrator or designee shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial guaranty posted pursuant to § 297-10 of this chapter. Where a financial guaranty has not been established, or where such financial security is insufficient to cover these costs, the costs and expenses shall be billed to the landowner and upon default of payment shall be entered on the tax roll as a special charge against the property pursuant to §

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<sup>17</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

<sup>18</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

66.0627, Wis. Stats., and collected with any other taxes levied thereon for the year in which the work is completed.

- I. Nothing in this chapter shall limit or exclude the Town from taking any other action under any Town municipal code, state statute, or other remedy allowed by law.

**§ 297-12. Appeals.**

- A. Town Board. The Town Board shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Zoning Administrator or designee in administering this chapter. The Town Board shall also use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Town Board may authorize variances from the provisions of this chapter which are not contrary to the public interest and where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary hardship.<sup>19</sup>
- B. Who may appeal. Appeals to the Town Board may be taken by any aggrieved person or by an officer, department, board or bureau of the Town affected by any decision of the administering authority.

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<sup>19</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).