

STORM WATER MANAGEMENT ORDINANCE

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STORM WATER MANAGEMENT ORDINANCE

AN ORDINANCE TO UPDATE CHAPTER 26 OF THE CODE OF ORDINANCES OF THE TOWN OF BROOKFIELD RELATING TO THE CONTROL OF POST- CONSTRUCTION RUNOFF

FOREWORD.

The intent of this ordinance is to reduce the amount of post-construction storm water and associated pollutants reaching waters of the state. Use of this ordinance will foster the consistent application of post-construction performance standards for new development and redevelopment contained in subchapters III and IV of chapter NR 151, Wis. Adm. Code.

The Town Board of the Town of Brookfield does hereby ordain that Chapter 26 of the Code of Ordinances of the Town of Brookfield is updated to read as follows:

CHAPTER 26 STORM WATER MANAGEMENT

26.01 AUTHORITY.

- (1) This ordinance is adopted by the Town Board of the Town of Brookfield under the authority granted by s. 60.627 Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 60.62 Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in s. 60.627 Wis. Stats., s. 60.62 Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Town Board hereby designates the Building Inspector to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

26.02 FINDINGS OF FACT.

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

- (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.

26.03 PURPOSE AND INTENT.

- (1) **PURPOSE.** The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
 - (a) Further the maintenance of safe and healthful conditions.
 - (b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 - (c) 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.

- (2) **INTENT.** It is the intent of the Town Board that this ordinance regulates post-construction storm water discharges to waters of the state, as mandated in the regulatory requirements of Subchapter III of both NR 151 and NR 216, Wisconsin Administrative Code. This ordinance may be applied on a site-by-site basis. The Town Board recognizes that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the Town Board, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

26.04 APPLICABILITY AND JURISDICTION.

(1) **APPLICABILITY.**

- (a) Where not otherwise limited by law, this ordinance applies after final stabilization to a site of land disturbing construction activity meeting any of the criteria in this paragraph, unless the site is otherwise exempt under paragraph (b).
1. A post construction site that results in the addition of 0.5 acres or more of impervious surface, including smaller individual sites that are part of a common plan of development that may be constructed at different times.
- (b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.
1. Nonpoint discharges from agricultural facilities and practices.
 2. Nonpoint discharges from silviculture activities.

3. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 4. Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
- (c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to post-construction sites of any size that, in the opinion of the Building Inspector, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(2) **JURISDICTION.**

This ordinance applies to post construction sites within the boundaries and jurisdiction of the Town of Brookfield.

(3) **EXCLUSIONS.**

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 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 s. 281.33 (2), Wis. Stats. To recognize this exemption for a particular project, the Town may require documentation of the person(s) charged with regulatory oversight.

26.05 DEFINITIONS.

- (1) “Administering authority” means a governmental employee, or a regional planning commission empowered under s. 60.627 Wis. Stats., that is designated by the Town Board to administer this ordinance.
- (2) “Agricultural facilities and practices” has the meaning given in s. 281.16, Wis. Stats.

- (3) “Average annual rainfall” means a calendar year of precipitation, excluding snow, which is considered typical.
- (4) “Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (5) “Business day” means a day the office of the Building Inspector is routinely and customarily open for business.
- (6) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (7) “Combined sewer system” means a system for conveying both sanitary sewage and storm water runoff.
- (8) “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.
- (9) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration (i.e. 24 hours), timing of distribution (i.e. Type II), rainfall intensity, return frequency (i.e. once every 2 years or 10 years), and total depth of rainfall.
- (10) “Development” means residential, commercial, industrial or institutional land uses and associated roads.
- (11) “Division of land” means the creation from one parcel of two or more parcels or building sites where such creation occurs at one time or through the successive partition within a 5-year period.
- (12) “Effective infiltration area” means the area of the infiltration system that is used exclusively to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (13) “Environmental corridor (primary and secondary)” means a composite of the best individual elements of the natural resource base including surface water, streams, and rivers and their associated floodlands and shorelands; woodlands, wetlands, and wildlife habitat; areas of ground water discharge and recharge; organic soils, rugged terrain and high relief topography; and significant geological formations and physiological features. A description of the process of defining and delineating environmental corridors is set

forth in the Southeastern Wisconsin Regional Planning Commission's Technical Record, Volume 4, No. 2 and is incorporated herein by reference.

- (14) "Environmentally sensitive area" means any area that, due to the natural resources present or the lack of filtering capacity, is more susceptible to the adverse impacts of sediment and other pollutants associated with erosion and urban runoff. Examples include environmental corridors, direct hydrologic connections to lakes, streams, wetlands, groundwater or other water resources, or very coarse or shallow soils above groundwater or bedrock.
- (15) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (16) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.
- (17) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (18) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Town Clerk of the Town of Brookfield by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (19) "Governing body" means Town Board of Supervisors.
- (20) "Illicit Connection" means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.
- (20) "Impervious surface" means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. Gravel

driveways shall be considered impervious unless specifically designed to encourage infiltration.

- (21) “In-fill area” means an undeveloped area of land located within existing development.
- (22) “Infiltration” means the entry of precipitation or runoff into or through the soil.
- (23) “Infiltration system” means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (24) “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.
- (25) “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.
- (26) “Maintenance agreement” means a legal document that provides for long-term maintenance of storm water management practices.
- (27) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance that has been approved by the Town. The Town shall take 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.
- (28) “New development” means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (29) “Off-site” means located outside the property boundary described in the permit application.

- (30) “On-site” means located within the property boundary described in the permit application.
- (31) "Ordinary high-water mark" has the meaning given in s. NR 115.03(6), Wis. Adm. Code.
- (32) “Outstanding resource waters” means waters listed in s. NR 102.10, Wis. Adm. Code.
- (33) “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.
- (35) “Permit” means a written authorization made by the Town to the responsible party to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (36) “Permit administration fee” means a sum of money submitted to the Building Inspector by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (37) “Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.
- (38) “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.
- (39) “Pollutant” as per s. 283.01(13), Wis. Stats., means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharge into water.
- (40) “Pollution” as per s. 281.01(10), Wis. Stats., means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.
- (41) “Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (42) “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.

- (43) “Preventive action limit” has the meaning given in s. NR 140.05(17), Wis. Adm. Code.
- (44) “Redevelopment ” means areas where development is replacing older development.
- (45) “Responsible party” means any person or entity holding fee title to the property or acting as the owners representative, including and person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMP’s and other approved elements of storm water plans and permits under this ordinance.
- (46) “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.
- (47) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - (a) Is designed or used for collecting water or conveying runoff.
 - (b) Is not part of a combined sewer system.
 - (c) Is not draining to a storm water treatment device or system.
 - (d) Discharges directly or indirectly to waters of the state.
- (48) “Site” means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (49) “Stop work order” means an order issued by the Building Inspector which requires that all construction activity on the site be stopped.
- (50) “Storm drainage system” means facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (51) “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.

- (52) “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.
- (53) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (54) “Top of the channel” means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (55) “Town” means Town of Brookfield.
- (56) “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.
- (57) “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.
- (58) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.

26.06 TECHNICAL STANDARDS.

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

- (1) Applicable design criteria, standards and specifications identified in the latest edition of the *Wisconsin Stormwater Manual* as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources.
 - (a) Water Quantity.

1. Runoff volumes and peak flow rates used in designing the water quantity components of stormwater structures shall be based on the principles of the document entitled *Urban Hydrology for Small Watersheds (Technical Release 55, Engineering Division, United States Department of Agriculture, June 1992)*, Natural Resource Conservation Service, using a Type II rainfall distribution pattern, or other methods approved by the Town. Peak flow reduction components of stormwater structures shall be designed in accordance with standard engineering practice.
2. Hydraulic models such as HEC-RAS or another methodology may be used to determine the change in surface water elevations.

(b) Water Quality.

1. Runoff volumes and peak flow rates used in designing the water quality components of storm water structures shall be calculated using the Small Storm Hydrology method set forth in the latest edition of the *Wisconsin Stormwater manual, Part 2: Technical Design Guidelines for Stormwater BMP's*.
 2. Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design of water quality components in reducing total suspended solids.
- (2) Other technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (3) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards such as those from other states or the USDA Natural Resources Conservation Service (NRCS) may be used upon approval by the Building Inspector and the Town Engineer.

- (4) All modeling involving average annual rainfall or runoff volumes shall use rainfall data from the Milwaukee area between March 28 and December 6, 1969, as the typical annual rainfall pattern for Waukesha County.
- (5) All velocity and peak flow computations for open channels and storm sewer pipe flows shall be based on Manning's Formula. Flow routing, culvert design, weir and orifice flow and other related hydraulic computations used to design storm water management facilities shall be based on standard applicable engineering formulas. Any design data or methodology proposed to be used for hydrologic or hydraulic computations other than those prescribed in this ordinance shall be approved by the town.
- (6) The construction or installation of all BMP's and BMP components shall comply with all applicable manufacturers and industry standards and specifications, including but not limited to those published by ASTM and the USDA Natural Resources Conservation Service.

26.07 PERFORMANCE STANDARDS.

- (1) **RESPONSIBLE PARTY.** The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.
- (2) **PLAN.** A written storm water management plan in accordance with 26.09 shall be developed and implemented for each post-construction site. A storm water management plan shall describe how the permit holder and other responsible party will meet the storm water management requirements of this section and other related requirements of this ordinance.
- (3) **GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER MANAGEMENT MEASURES.** To satisfy the requirements of this section, a storm water management plan shall, to the maximum extent practicable, adhere to the following guiding principles.

- (a) Preserve natural watershed boundaries and drainage patterns.
 - (b) Reserve adequately sized areas for storm water infiltration, detention and treatment early in the site planning process.
 - (c) Locate storm water BMP's prior to runoff leaving the site or entering waters of the state, and outside of wetlands, floodplains, primary or secondary environmental corridors, or isolated natural areas.
 - (d) Minimize soil compaction and maintain pre-development groundwater recharge areas.
 - (e) Minimize impervious surfaces and have them drain to vegetated areas for flow attenuation, pollutant filtering and groundwater recharge.
 - (f) Emphasize vegetated swales, native plantings, and low flow velocities for storm water conveyance, treatment and attenuation.
 - (g) Allow for different storm water management strategies for clean runoff (i.e. roofs) versus polluted runoff (i.e. streets and parking lots).
 - (h) Provide for emergency overflow in all storm water BMP designs.
- (4) **SITE PLAN MAP REQUIREMENTS.** A site map and supporting data of site conditions shall delineate or display all of the following applicable items.
- (a) Development title, graphic scale and north arrow.
 - (b) Property location description by public land survey system (1/4 section, section, township, range, county).
 - (c) Location map (smaller scale) showing the site location within a public land survey section or subdivision.
 - (d) Ownership boundaries, bearings, lengths and other survey references that will accurately identify the sites location, in accordance with s. 236 Wis. Stats.
 - (e) Lot numbers and dimensions, including outlots for all land divisions.
 - (f) Name and complete contact information for the applicant, landowner, developer and project engineer.
 - (g) Surveyors certificate if applicable, signed, dated and sealed for all land divisions.
 - (h) Sheet numbers and revision dates on every page.

- (i) Existing site topography at a contour interval not to exceed 2 feet, including spot elevations for physical features such as: culvert (invert elevations), retaining walls, road and ditch centerlines and topographic high and low points.
- (j) Location and name, if applicable, of all lakes, streams, channels, ditches, and other water bodies or areas of channelized flow on or adjacent to the site.
- (k) Location and name, if applicable, of all wetlands and identification of source of delineation. For final land divisions, these boundaries shall be field verified.
- (l) Boundaries of shoreland zones and the ordinary high water mark (OHWM) for any navigable water body as defined by Waukesha County or the Wisconsin DNR. For final land divisions, the OHWM boundaries shall be field verified.
- (m) Boundaries and elevation of the 100-year floodplains, flood fringes and floodways, as defined by Waukesha County, the Wisconsin DNR or FEMA. For final land divisions, these boundaries and elevations shall be field verified.
- (n) Boundaries and soil symbol for each soil mapping unit and the identification of all hydric soils as defined by the USDA-Natural Resources Conservation Service.
- (o) Locations of all available soil borings or soil profile evaluations with unique references to supplemental data report forms.
- (p) Location of primary and secondary environmental corridors, as defined by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). For final land divisions, these boundaries shall be field verified.
- (q) Location and description of isolated natural area boundaries as defined by the SEWRPC, woodland areas and other vegetative cover types.
- (r) Location and descriptive notes for existing and proposed structures within 50 feet of the property boundaries and their proposed use, including, but not limited to: buildings and foundations, roads, parking areas, fence lines, access lanes, culverts (include size and type), above ground utilities and retaining walls.
- (s) Location and descriptive notes for other known existing site features including, but not limited to: rock outcrops or other karst features, tile drains, buried utilities, dumps, landfills, manure or other waste storage facilities.
- (t) Boundaries and descriptive notes for all applicable setbacks and for “protective areas”, as specified in 26.07 (5) (d) of this ordinance.

- (u) Location and descriptive notes for any existing or proposed easements, right-of-ways, vision corners or other known site restrictions. Road right-of ways and building setbacks shall be in compliance with all applicable administrative codes, adopted plans and ordinances.
 - (v) Location and descriptive notes for existing and proposed public dedications of parcels or right-of-ways.
 - (w) Location and descriptive notes for preplanned building or waste disposal sites, when limited by site features.
 - (x) Location and documentation of any existing well and delineation of any applicable regulatory setbacks, in accordance with ch. NR 811 and 812 Wis. Admin. Code.
 - (y) Notes describing source documents, date and measure of accuracy for all applicable mapping features noted above.
 - (z) Other site information that the Town determines is necessary to administer this ordinance.
- (5) **REQUIREMENTS.** The plan required under sub. (2) shall include the following:
- (a) **TOTAL SUSPENDED SOLIDS.** BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
 1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.
 2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.

3. For in-fill development under 5 acres that occurs within 10 years after October 1, 2002, by design, reduces to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.
4. For in-fill development that occurs 10 or more years after October 1, 2002, by design, reduces to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 80% total suspended solids reduction to meet the requirements of this subdivision.
5. Notwithstanding subs. 1. to 4. , if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(b) **PEAK DISCHARGE.**

1. Peak flow rates of stormwater runoff from the development shall not exceed those calculated for the series of design storms and development conditions below.
2. At a minimum, the 2-year, the 10-year, and the 100-year, 24-hour rainfall events shall be used in comparing peak flow discharge rates for pre-development and post-development conditions.
3. To determine compliance with this ordinance, the following design storm rainfall depths shall be used, which are derived from TR-55 and extrapolated for Waukesha County.

Design Storm	1-year 24-hour	2-year 24-hour	10-year 24-hour	100-year 24-hour
Rainfall Depth	2.3 inches	2.7 inches	4.0 inches	5.6 inches

4. All computations of pre-development conditions as specified in this ordinance shall use those NRCS runoff curve numbers assigned for a “good” hydrologic condition for each land cover type. For lands where the pre-development land use was cropland, the following NRCS curve number values shall be used as maximums.

Hydrologic Soil Group	A	B	C	D
NRCS Curve Number for Agricultural Lands	56	70	79	83

- (c) INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, except as provided in subds. 5. through 8.
 1. For residential developments 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 volume from the 2-year, 24-hour design storm with a type II distribution. Separate runoff 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 non-residential development, 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 post-development runoff from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in 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 be the same as in par. (b).
4. 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 subd. 8 below. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips. All designs shall comply with the technical standards in 26.06.
5. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph due to potential for groundwater contamination:
 - a. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 - b. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.

- c. Fueling and vehicle maintenance areas.
 - d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
 - e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this does not prohibit infiltration of roof runoff.
 - f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet 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 s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. 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 s. 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 3-foot soil layer with 20% fines or greater; or at least a 5-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 requirement does not prohibit infiltration of roof runoff.
6. Exemptions. The following are not required to meet the requirements of this paragraph:

- a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - b. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 - c. Redevelopment post-construction sites.
 - d. In-fill development areas less than 5 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.
7. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.
8. Groundwater protection.
- a. Infiltration systems designed in accordance with this paragraph 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 subd. par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
 - c. No storm water BMP shall be installed that meets the definition of an injection well under Wisconsin Administrative Code, Chapter NR 812.05.
 - d. All storm water BMP's shall comply with the provisions of any applicable wellhead protection plan for a community water supply under Chapter NR 811.16(5).

(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 paragraph, “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 s. NR 103, Wis. Admin. Code, 75 feet.
 - b. For perennial and intermittent streams identified on the Waukesha County GIS system, 50 feet. If there is a discrepancy between the Waukesha County GIS system and the applicable United States geological survey 7.5-minute series topographic map, the more stringent stream identification shall apply.
 - 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. Wetland boundary delineations shall be made in accordance with s. NR 103, Wis Admin. Code. This paragraph 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.

- e. For less susceptible wetlands, 10 percent 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 subd. 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 s. NR 103, Wis. Admin. Code.
 - g. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
2. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
3. The following requirements shall be met:
- a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 - 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. 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.
 - 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, but shall not

encroach wetlands, floodplains or primary or secondary environmental corridors.

4. This paragraph does not apply to:
 - a. Redevelopment post-construction sites.
 - b. In-fill development areas less than 5 acres.
 - c. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - d. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
 - e. 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.
5. Other regulations, such as ch. 30, Wis. Stats., and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval process may apply in the protective area, and shall be confirmed.

(e) **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. BMPs may include oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(f) **SWALE TREATMENT FOR TRANSPORTATION FACILITIES.**

1. **Applicability.** Except as provided in subd. 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, non-vegetative 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 2-year, 24-hour design storm or a 2-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 Building Inspector, in consultation with the Town Engineer 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 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:
- a. An outstanding resource water.
 - b. An exceptional resource water.
 - c. Waters listed in s. 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 s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(6) LOCATION AND REGIONAL TREATMENT OPTION.

- (a) The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
- (b) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance

standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.

- (c) Except as allowed under par. (d), post-construction runoff from new development shall meet the post-construction performance standards prior to entering 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 ordinance if:
 - 1. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, 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 paragraph.
 - 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. This does not supersede any other applicable federal, state or local regulation such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.
- (g) The Town Board may approve off-site management measures provided that all of the following conditions are met:
 - 1. The Town Board determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Town

of Brookfield and that contains management requirements consistent with the purpose and intent of this ordinance.

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 storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
 - 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 Town Board 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 Town Board. In determining the fee for post-construction runoff, the Town Board shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(7) **ALTERNATE REQUIREMENTS.** The Town Board may establish storm water management requirements more stringent than those set forth in this section if the Town Board determines that an added level of protection is needed to protect sensitive resources.

(9) **ILICIT DISCHARGES AND CONNECTIONS**

- a. **DISCHARGES PROHIBITED.** No person shall discharge, spill or dump substances or materials which are not entirely composed storm water into receiving bodies of water or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

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

- c. EXEMPTIONS. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water:
 - (1) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.
 - (2) Discharges resulting from fire fighting activities.
 - (3) Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.

- d. Enforcement shall be established as set forth in 26.13.

26.08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

- (1) PERMIT REQUIRED. No responsible party may undertake a land disturbing construction activity without receiving a Grading and Erosion Control Permit from the Building Inspector prior to commencing the proposed activity.

- (2) PERMIT APPLICATION AND FEES. Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Building Inspector a permit application made on a form provided by the Building Inspector for that purpose.
 - (a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a final storm water management plan, final erosion and sediment

control plan, a maintenance agreement and a non-refundable permit administration fee.

- (b) The storm water management plan shall be prepared to meet the requirements of 26.07 and 26.09, the maintenance agreement shall be prepared to meet the requirements of 26.10, the financial guarantee shall meet the requirements of 26.11, and fees shall be those established by the Town Board as set forth in 26.12.

(3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The Building Inspector shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

- (a) Within 20 business days of the receipt of a complete permit application, including all items as required by sub. (2), the Building Inspector shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.
- (b) If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Building Inspector shall issue the permit.
- (c) If the storm water permit application, plan or maintenance agreement is disapproved, the Building Inspector shall detail in writing the reasons for disapproval.
- (d) The Building Inspector may request additional information from the applicant. If additional information is submitted, the Building Inspector shall have 10 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (e) Failure by the Building Inspector to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) **PERMIT REQUIREMENTS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be

deemed to have accepted these conditions. The Building Inspector may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Building Inspector to suspend or revoke this permit may be appealed in accordance with 26.14.

- (a) Compliance with this permit does not relieve the permit holder or other responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations. The Town may require the applicant to obtain other permits or plan approvals prior to issuing a permit.
- (b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit. A copy of the approved plan shall be kept at the construction site at all times during normal business hours.
- (c) The responsible party shall notify the Building Inspector at least 3 business days before commencing any work in conjunction with the storm water management plan, and within 3 business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the Building Inspector so that practice installations can be inspected during construction.
- (d) Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Building Inspector or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Building Inspector or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- (e) The responsible party shall notify the Building Inspector and Town Engineer of any significant modifications it intends to make to an approved storm water management plan. The Building Inspector may require that the proposed modifications be submitted to it for review and approval prior to incorporation into the storm water management plan and execution by the responsible party.

- (f) The responsible party shall maintain all storm water management practices in accordance with the approved storm water management plan until the practices either become the responsibility of the Town of Brookfield, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
 - (g) The responsible party authorizes the Building Inspector to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under 26.11. The Town shall provide reasonable notice to the permit holder and other responsible party after exercising this authority.
 - (h) If so directed by the Building Inspector, the responsible party shall repair at the responsible party's own expense all damage to adjoining properties, 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. The permit holder or other responsible party shall have permission from the adjoining properties landowner prior to making repairs.
 - (i) The responsible party shall permit property access to the Building Inspector or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 - (j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Building Inspector may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
 - (k) The responsible party is subject to the enforcement actions and penalties detailed in 26.13, if the responsible party fails to comply with the terms of this permit.
- (5) **PERMIT CONDITIONS.** Permits issued under this subsection may include conditions established by the Town Board in addition to the requirements needed to meet the performance standards in 26.07 or a financial guarantee as provided for in 26.11.

- (6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Building Inspector notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d).

26.09 STORM WATER MANAGEMENT PLAN.

- (1) PLAN REQUIREMENTS. The storm water management plan required under 26.08 (2) shall contain at a minimum the following information:
- (a) 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.
 - (b) 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.
 - (c) Pre-development site conditions, including:
 - 1. One or more site maps at a scale of not less than 1 inch equals 40 feet, in accordance with 26.07(4). The site maps shall show the following: topography and drainage network to show runoff patterns onto, through, and from the site; location of existing storm water discharge points; flow path and direction for all storm water conveyance sections, including time of travel and time of concentration applicable to each; watershed boundaries used in hydrology determinations to show compliance with performance standards; delineation and labeling of all existing impervious areas.
 - 2. Computations of the peak flow discharge rates and discharge volumes, for each discharge point in the development. At a minimum, computations must be made for the following storms: 2-year, 10-year and 100-year. 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).

- (d) Post-development site conditions, including:
1. 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.
 2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 3. One or more site maps at a scale of not less than 1 inch equals 40 feet, , in accordance with 26.07(4). The site maps shall show the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site; post-construction drainage network to show runoff patterns onto, through, and from the site; location of proposed storm water discharge points; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 4. Computations of the peak flow discharge rates and discharge volumes, for each discharge point in the development, including analysis of the safe capacity of downstream drainage conveyance systems. At a minimum,

computations must be made for the following storms: 2-year, 10-year and 100-year. All major assumptions used in developing input parameters shall be clearly stated. 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).

5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures.
 6. Design computations and all applicable assumptions for stormwater conveyance (open channel, closed pipe) and stormwater treatment measures (pollutant loading, sedimentation type, filtration type, infiltration type) as needed to show that practices are appropriately sized and capable of meeting the discharge performance standards of this ordinance.
 7. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
- (e) A description and installation schedule for the storm water management practices needed to meet the performance standards in 26.07.
 - (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - (h) Other information requested in writing by the Building Inspector to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
 - (i) 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 ordinance.
- (2) **ALTERNATE REQUIREMENTS.** The Building Inspector may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 26.07 (5).

26.10 MAINTENANCE AGREEMENT.

- (1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required under 26.08 (2) for storm water management practices shall be an agreement between the Town of Brookfield and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the 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.
- (2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by 26.09(1)(f):
 - (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under 26.08 (2).
 - (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under 26.08 (2).
 - (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).
 - (e) Authorization for the Building Inspector to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (f) A requirement on the Building Inspector to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.

- (g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the Building Inspector of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame, as set by the Building Inspector.
- (h) Authorization of the Building Inspector to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The Building Inspector shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

26.11 FINANCIAL GUARANTEE.

- (1) ESTABLISHMENT OF THE GUARANTEE. The Town Board may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Town Board. The financial guarantee shall be in an amount determined by the Town Engineer 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 Building Inspector 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 Building Inspector that the requirements of this ordinance have not been met.
- (2) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:
 - (a) The Building Inspector shall release the portion of the financial guarantee established under this section, less any costs incurred by the Building Inspector to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Building Inspector may make provisions for

a partial pro-rata release of the financial guarantee based on the completion of various development stages.

- (b) The Building Inspector shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Building Inspector, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

26.12 FEE SCHEDULE.

The fees referred to in other sections of this ordinance shall be established by the Town Board and may from time to time be modified by resolution. A schedule of the fees established by the Town Board shall be available for review in the Clerk's Office at the Town Hall.

26.13 ENFORCEMENT.

(1) EROSION CONTROL AND STORM WATER RUNOFF

- (a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (b) The Building Inspector shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (c) Upon receipt of written notification from the Building Inspector under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Building Inspector in the notice.

- (d) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Building Inspector may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Building Inspector plus interest and legal costs shall be billed to the responsible party.
- (e) The Building Inspector is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the Town Attorney to obtain a cease and desist order in any court with jurisdiction.
- (f) The Building Inspector may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Building Inspector or by a court with jurisdiction.
- (h) The Building Inspector is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Town Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (i) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$50 dollars or more than \$500 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (j) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (k) When the Building Inspector determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the Building Inspector or a party designated by the Building Inspector may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Building Inspector shall keep a detailed

accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to 26.11 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(2) **ILLICIT DISCHARGES AND CONNECTIONS**

- (a) Whenever the Building Inspector finds a person has violated a prohibition or failed to meet a requirement of this section, the Town may order compliance by written notice of violation to the responsible person.
- (b) Such notice may require without limitation:
 - 1. The elimination of illicit connections or discharges;
 - 2. That violating discharges, practices, or operations shall cease and desist;
 - 3. The abatement or remediation of storm water pollution or contaminated hazards and the restoration of any affected property;
 - 4. In the event the person fails to eliminate the illicit connects or discharge, fails to cease and desist in discharge, practices or operations in violation of this Section or fails to abate or remediate the storm water pollution or contamination hazards, that person may be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

26.14 APPEALS.

- (1) **APPEALS.** 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 Building Inspector in administering this ordinance. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the

public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

- (2) 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 of Brookfield affected by any decision of the Building Inspector.

26.15 SEVERABILITY.

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

26.16 EFFECTIVE DATE.

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Town Board of the Town of Brookfield on the 19th day of April, 2005.

Approved: _____

Attested _____

Published on 19 April, 2005.