



TITLE 5
ZONING REGULATIONS

Chapter 18

Storm Water Management and Construction Site Erosion Control

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5-18-1: Application and administration:

- (A) Application: The requirements of this Chapter do not pre-empt more stringent storm water management requirements that may be imposed by the Wisconsin Department of Natural Resources.
- (B) Exclusions: This Chapter is not applicable to activities conducted by a state agency, or the office of district attorney, if the office of district attorney enters into a memorandum of understanding with the Department of Natural Resources.
- (C) Administration: The Administrator shall administer and enforce the provisions of this Chapter.

5-18-2: Severability:

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

5-18-3: Definitions:

When used in this Chapter the following terms have the following meaning: ADMINISTRATOR: means the Zoning Administrator for the City of Monroe.

AGRICULTURAL FACILITY: means a structure associated with the following:

- (A) beekeeping;
- (B) commercial feedlots;
- (C) dairying and egg production;
- (D) floriculture;
- (E) fish or fur farming;
- (F) grazing and livestock raising;
- (G) poultry raising;
- (H) raising of grain, grass, mint and seed crops;
- (I) orchards and raising of fruits, nuts, berries and vegetables;
- (J) sod farming;
- (K) placing land in federal programs in return for payments in kind; and
- (L) owning land, at least 35 acres of which is enrolled in a conservation reserve program under United States Code Title 16, Chapter 58.



AVERAGE ANNUAL RAINFALL: means a calendar year of precipitation, excluding snow, which is considered typical as determined by the rainfall record for the Madison area between March 12 and December 2, 1981.

BEST MANAGEMENT PRACTICE: means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

BUSINESS DAY: means a day the offices of the City are routinely and customarily open for business.

CEASE AND DESIST ORDER: means a court-issued order to halt land disturbing construction activity.

CONNECTED IMPERVIOUSNESS: means an impervious surface directly connected to a separate storm sewer or water of the state via an impervious flow path.

CONSTRUCTION SITE: means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

CONTAMINANT OF CONCERN: means a hazardous substance that is present at a site or facility in such concentrations that the contaminant poses an actual or potential threat to human health, safety or welfare or the environment based upon:

(A) The toxicological characteristics of the hazardous substance that influence its ability to adversely affect human health or the environment relative to the concentration of the hazardous substance at the site or facility;

(B) The chemical and physical characteristics of the hazardous substance which govern its tendency to persist in the environment and the chemical, physical and biological characteristics at the site or facility which govern the tendency for the hazardous substance to persist at the site or facility;

(C) The chemical and physical characteristics of the hazardous substance which govern its tendency to move into and through environmental media;

(D) The naturally occurring background concentrations of the hazardous substance;

(E) The thoroughness of the testing for the hazardous substance at the site or facility;

(F) The frequency that the hazardous substance has been detected at the site or facility; and

(G) Degradation by-products of the hazardous substance.

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

DEVELOPMENT: means an artificial change to improved or unimproved land.

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

EROSION: means the process by which the surface of the land is worn away by the action of wind, water, ice or gravity.

EROSION AND SEDIMENT CONTROL PLAN: means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

EXCEPTIONAL RESOURCE WATERS: means the surface waters designated in Section NR 102.11 of the Wisconsin Administrative Code.

FINAL STABILIZATION: means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

FINANCIAL GUARANTEE: means a performance bond, maintenance bond, surety bond, irrevocable letter of credit or similar guarantee.

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



impervious.

IN-FILL DEVELOPMENT: means an area of land located within existing development that has no impervious surface.

INFILTRATION: means the entry of precipitation or runoff into or through the soil.

INFILTRATION SYSTEM: means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in an area that releases as runoff a small portion of the precipitation that falls on it such as lawns, gardens, parks, forests or other similar vegetated areas, redirection of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels, designed for conveyance and pollutant removal only.

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 activities include clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

MAINTENANCE AGREEMENT: means a legal document that provides for long-term maintenance of storm water management practices.

MAXIMUM EXTENT PRACTICABLE: means a level of implementing best management practices in order to achieve the performance standards specified in this Chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. Maximum extent practicable allows flexibility in the way to meet the performance standards and may vary based on the performance standards and site conditions.

NEW DEVELOPMENT: means any development resulting from the conversion of previously undeveloped land or agricultural land uses.

NONPOINT SOURCE POLLUTION: means pollution from many diffuse sources including rainfall, snowmelt or irrigation water that picks up and carries away natural and human-made pollutants and deposits such in the waters of the state.

OFF-SITE: means located outside the site as designated in the permit application.

ON-SITE: means located within the site as designated in the permit application.

ORDINARY HIGH WATER MARK: means the point on the stream bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the stream bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite stream bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

OUTSTANDING RESOURCE WATERS: means surface waters designated in Section NR 102.10 of the Wisconsin Administrative Code.

PERCENT FINES: means the percentage of a given sample of soil, which passes through a # 200 sieve.

PERFORMANCE STANDARD: means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

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

POLLUTANT: means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substances, heat, wrecked or discarded equipment, rocks, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

POLLUTION: means contaminating or rendering unclean or impure the waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

POST-CONSTRUCTION: means completion of land disturbing construction activity and final site stabilization of a construction site.



PRE-DEVELOPMENT: means the 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.

REDEVELOPMENT: means areas where development is replacing older development.

RESPONSIBLE PARTY: means any person holding fee title to the property or other person contracted or obligated by other agreement to meet the requirements of this Chapter.

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

SEDIMENT: means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

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 conveying both sanitary sewage and storm water runoff;
- (C) Is not draining to a storm water treatment device or system; and
- (D) Discharges directly or indirectly to waters of the state.

SITE: means the entire area included in the legal description of the land on which the land disturbing construction activity occurs or occurred.

STOP WORK ORDER: means an order issued by the Administrator, which requires that all construction activity on the site be stopped.

STORM WATER MANAGEMENT PLAN: means a comprehensive plan designed to reduce the discharge of runoff and pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

STORM WATER MANAGEMENT PRACTICE: means any measure, practice, technique, device or structure used to meet the requirements of this Chapter.

STORM WATER MANAGEMENT SYSTEM PLAN: means a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

STREAM BANK: means the land surface abutting the bed of any navigable waterway which, either prior to any project or alteration of land contours or as a result of the proposed project or alteration, slopes or drains without complete interruption into the waterway.

TECHNICAL STANDARD: means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

TOP OF THE CHANNEL: means an edge, or point on the landscape, landward from the ordinary high water mark, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet, landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.

TR-55: means the United States Department of Agriculture, Natural Resources Conservation Service, and Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

TYPE II DISTRIBUTION: means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973."

WATERS OF THE STATE: means those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

WETLANDS: means an area, whether natural, mitigated or restored, where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which has soils indicative of wet conditions.



WETLANDS IN AREAS OF SPECIAL NATURAL RESOURCE INTEREST: means those wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas. Areas of special natural resource interest include:

- (A) Cold water communities including all trout streams and their tributaries and trout lakes;
- (B) Lakes Michigan and Superior and the Mississippi River;
- (C) State and federal designated wild and scenic rivers, designated state riverways and state designated scenic urban waterways;
- (D) Unique and significant wetlands identified in special area management plans, special wetland inventory studies, advanced delineation and identification studies and areas designated by the United States Environmental Protection Agency;
- (E) Calcareous fens;
- (F) Habitat used by state or federally designated threatened or endangered species;
- (G) State parks, forests, trails and recreation areas;
- (H) State and federal fish and wildlife refuges and fish and wildlife management areas;
- (I) State and federally designated wilderness areas;
- (J) Designated or dedicated state natural areas;
- (K) Wild rice waters; and
- (L) Any other surface waters identified as outstanding or exceptional resource waters.

5-18-4: Post-construction storm water management:

(A) **Applicability:** This section applies to land disturbing construction activities, including those land disturbing construction activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale, even though multiple, separate and distinct land disturbing construction activities may take place at different schedules, that meet any of the following applicability criteria:

1. Land disturbing construction activities on construction sites, which have one or more acres of land disturbing construction activity, except as provided under subsection (A)3 of this section.

2. Post-construction sites of any size that, in the opinion of the Administrator, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, causes undue channel erosion, increases water pollution by scouring or transports particulate matter or endangers property or public safety.

3. Sites that meets any of the criteria in subsection 1 above are exempt from the requirements of this section if one of the following is met:

- (a) A redevelopment post-construction site with no increase in any impervious surfaces;
- (b) A post-construction site with less than 10 percent connected imperviousness based upon complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre;
- (c) Nonpoint source pollution from agricultural facilities or silviculture activities;
- (d) Routine maintenance for project sites under 5 acres of land disturbing construction activity if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility; or
- (e) Underground utility construction such as water, sewer and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

(B) **Technical Standards:** The following technical standards shall be used in designing the water quality, peak flow shaving and infiltration components of storm water practices:



1. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources; or

2. Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Administrator.

(C) Plan: The responsible party shall develop and implement a written post-construction storm water management plan for each post-construction site.

1. Plan Requirements: The plan shall contain 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 or persons responsible for installation of storm water management practices, and person or persons 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, referencing the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(c) Pre-development conditions, including:

(1) One or more site maps at a scale of not less than 1 inch equals 50 feet. The site map shall show the following:

(i) Site location and legal description;

(ii) Predominant soil types and hydrologic soil groups;

(iii) Existing cover type and condition;

(iv) Topographic contours of the site at a scale not to exceed 2 feet;

(v) Topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site;

(vi) Watercourses that may affect or be affected by runoff from the site;

(vii) Flow path and direction for all storm water conveyance sections;

(viii) Watershed boundaries used in hydrology determinations to show compliance with performance standards;

(ix) Lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site;

(x) Limits of the 100 year floodplain; and

(xi) Location of wells and wellhead protection areas covering the project area and delineated pursuant to Section NR 811.16 of the Wisconsin Administrative Code.

(2) 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 or maps.

(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 practices in the development area imposed by wellhead protection plans and this section.

(3) One or more site maps at a scale of not less than 1 inch equals 50 feet. The site map shall show the following:



- (i) Post-construction pervious areas including vegetative cover type and condition;
 - (ii) Impervious surfaces including all buildings, structures and pavement;
 - (iii) Post-construction topographic contours of the site at a scale not to exceed 2 feet;
 - (iv) Post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through and from the site;
 - (v) Locations and dimensions of drainage easements;
 - (vi) Locations of maintenance easements specified in the maintenance agreement;
 - (vii) Flow path and direction for all storm water conveyance sections;
 - (viii) Location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area;
 - (ix) 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; and
 - (x) 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) Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map or maps.
- (5) Results of investigations of soils and groundwater required for the placement and design of storm water management practices. 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 subsection (D) of this section.
 - (f) A maintenance plan meeting the requirements of subsection (F) of this section 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 Administrator to determine compliance of the proposed storm water management practices with the provisions of this section.
 - (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 section.
2. Alternate Requirements: The Administrator may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under subsection (D)8 of this section.
- (D) Performance Standards: The plan required under subsection (C) of this section shall meet the following performance standards:
1. Total Suspended Solids: Best management practices shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
 - (a) For new development, by design, to reduce to the maximum extent practicable the total suspended solids load by 80 percent, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80 percent total suspended solids reduction to meet the requirements of this subsection.
 - (b) For redevelopment, by design, to reduce to the maximum extent practicable the total suspended solids load by 40 percent, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40 percent total suspended solids reduction to meet the requirements of this subsection.
 - (c) For in-fill development under 5 acres that occurs within 10 years after the effective date of this Chapter, by design,



to reduce to the maximum extent practicable the total suspended solids load by 40 percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40 percent total suspended solids reduction to meet the requirements of this subsection.

(d) For in-fill development that occurs 10 or more years after the effective date of this Chapter, by design, to reduce to the maximum extent practicable the total suspended solids load by 80 percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80 percent total suspended solids reduction to meet the requirements of this subsection.

(e) Notwithstanding subsections (D)1(a) through (D)1(d) of this section, 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.

2. Peak Discharge:

(a) At a minimum, the 2-year, 10-year, and 100-year 24-hour design storms shall be used in comparing peak flow discharge rates for pre-development and post-development conditions. The 2-year and 10-year 24-hour post-development runoff rates shall be maintained to the 2-year and 10-year 24-hour pre-development runoff rates and the 100-year 24-hour post-development design runoff shall be controlled at the 10-year 24-hour pre-development runoff rate.

(b) Pre-development conditions shall assume “good hydrologic conditions” for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

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

| | | | | |
|------------------------|----|----|----|----|
| Hydrologic Soil Group: | A | B | C | D |
| Runoff Curve Number: | 55 | 68 | 77 | 80 |

(c) Subsections (D)2(a)-(b) of this section do not apply to any of the following:

- (1) A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 feet for the 2-year 24-hour storm event;
- (2) A redevelopment post-construction site; and
- (3) An in-fill development area less than 5 acres.

3. Infiltration: Best management practices shall be designed, installed and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subsections (D)3(e) through (D)3(h) of this section.

(a) For residential developments one of the following shall be met:

- (1) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1 percent of the project site is required as an effective infiltration area; or
- (2) Infiltrate 25 percent 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 1 percent of the project site is required as an effective infiltration area.

(b) For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:

- (1) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the project site is required as an effective infiltration area; or



(2) Infiltrate 10 percent of the 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 percent of the project site is required as an effective infiltration area.

(c) Pre-development conditions shall be the same as in subsection (D)2 of this section.

(d) Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection (D)3(h) of this section. Pretreatment options may include oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

(e) Exclusions. The runoff from the following areas are excluded from meeting the requirements of subsection (D)3 of this section:

(1) Areas associated with tier 1 industrial facilities identified in Section NR 216.21(2)(a) of the Wisconsin Administrative Code, including storage, loading, rooftop and parking;

(2) Storage and loading areas of tier 2 industrial facilities identified in Section NR 216.21(2)(b) of the Wisconsin Administrative Code;

(3) Fueling and vehicle maintenance areas;

(4) Areas within 1000 feet upgradient or within 100 feet downgradient of karst features. A 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 includes caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets;

(5) 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 subsection does not prohibit infiltration of roof runoff;

(6) Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock;

(7) Areas within 400 feet of a community water system well as specified in Section NR 811.16(4) of the Wisconsin Administrative Code, or within 100 feet of a private well as specified in Section NR 812.08(4) of the Wisconsin Administrative Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development;

(8) Areas where contaminants of concern are present in the soil through which infiltration will occur; and

(9) Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20 percent fines or greater; or at least a 5-foot soil layer with 10 percent fines or greater. This subsection 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.

(f) Exemptions. The following are not required to meet the requirements of subsection (D)3 of this section:

(1) Areas where the infiltration rate of the soil is less than 0.6 inches per hour measured at the site;

(2) Parking areas and access roads are less than 5,000 square feet for commercial and industrial development;

(3) Redevelopment post-construction sites;

(4) In-fill development areas less than 5 acres; and

(5) Infiltration areas during periods when the soil on the site is frozen;

(6) Roads in commercial, industrial and institutional land areas and arterial residential roads.

(g) Where alternate uses of runoff are employed and approved by the Administrator, such as for toilet flushing, laundry or irrigation, such alternate uses shall be given equal credit toward the infiltration volume required by subsection (D)3



of this section.

(h) Infiltration systems designed in accordance with subsection (D)3 of this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application as those terms are used in Chapter NR 140 of the Wisconsin Administrative Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration best management practice may not be installed or shall be modified to prevent infiltration to the maximum extent practicable. Discharge from pretreatment best management practices shall remain below the enforcement standard at the point of standards application.

4. Protective areas: This subsection applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection (D)4(c) of this section. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface but 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) The extent of the protective area is as follows:

(1) For outstanding resource waters, exceptional resource waters and for wetlands in areas of special natural resource interest, 75 feet.

(2) For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map or a county soil survey map, whichever is more current, 50 feet.

(3) For lakes, 50 feet.

(4) For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following: 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 made by other agencies and consultants may be relied upon. 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 has been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

(5) For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet and nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

(6) For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

(7) In subsections (D)4(a)(1), (D)4(a)(4) and (D)4(a)(5) of this section, 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 Section NR 103.03 of the Wisconsin Administrative Code.

(b) The following requirements shall be met:

(1) Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

(2) Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for stream 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 stream bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

(3) Best management practices such as filter strips, swales or wet detention basins that are designed to control pollutants from nonpoint sources may be located in the protective area.

(c) Subsection (D)4 of this section does not apply to:

(1) Redevelopment post-construction sites;



- (2) In-fill development areas less than 5 acres;
- (3) Structures that cross or access surface waters such as boat landings, bridges and culverts;
- (4) Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain stream bank stability; and
- (5) Structures constructed under special zoning permission for the construction or placement of a structure of property in a shoreland setback area if:
 - (i) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark;
 - (ii) The total floor area of all of the structures in the shoreland setback area of the property will not exceed 200 square feet, in calculating this square footage boathouses shall be excluded;
 - (iii) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides; and
 - (iv) The county approved a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest to the water.

5. Fueling and Vehicle Maintenance Areas: Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have best management practices designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state; that contains no visible petroleum sheen. A combination of the following best management practices may be used: oil and grease separators, canopies, petroleum spill cleanup materials or any other structural or nonstructural method of preventing or treating petroleum in runoff.

6. Swale Treatment for Transportation Facilities: Except as provided in subsection (D)6(c) of this section, transportation facilities that use swales for runoff conveyance and pollutant removal shall meet all of the requirements of this subsection. Swales designed to the maximum extent practicable shall do 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 time 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.
- (c) Additional Requirements. The Administrator may, consistent with water quality standards, require that other provisions of this section be met on a transportation facility with an average daily travel of greater than 2,500 vehicles and where the initial surface water of the state that the runoff directly enters any of the following:
 - (1) An outstanding resource water;
 - (2) An exceptional resource water;
 - (3) Waters listed in Section 303(d) of the Clean Water Act, 33 U.S.C. § 1313, that are identified as impaired in whole or in part, due to nonpoint source pollution impacts; or
 - (4) Waters where targeted performance standards are promulgated by rule of the Wisconsin Department of Natural Resources to meet water quality standards.

7. General Considerations for On-Site and Off-Site Storm Water 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;
- (b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety; and



(c) In areas draining to a land-locked pond, best management practices shall be designed to maintain or reduce the existing maximum 100-year floodplain elevation of the area adjacent to the pond unless the entire 100-year floodplain lies within the owner's property. This condition may be waived if the owner obtains the legal right to increase flood elevations on all properties where the floodplain is increased due to development activities.

8. Location and Regional Treatment Option:

(a) The best management practices 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 best management practice, such as a wet detention pond, is not required to meet the performance standards of this section. Post-construction best management practices may be located in non-navigable surface waters.

(c) The discharge of runoff from a best management practice, such as a wet detention pond, or after a series of such best management practices is subject to this Chapter.

(d) Except as allowed under subsection (D)8(e) of this section, post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.

(e) Post-construction runoff from any development within a navigable surface water that flows into a best management practice is not required to meet the performance standards of this section if:

(1) The best management practice was constructed prior to the effective date of this Chapter and the best management practice either received a permit issued under Chapter 30 of the Wisconsin Statutes or the best management practice did not require such permit; and

(2) The best management practice is designed to provide runoff treatment from future upland development.

(f) Runoff from existing development, redevelopment and undeveloped areas of land located within existing development shall meet the post-construction performance standards in accordance with subsection (D)8 of this section in accordance with the following:

(1) To the maximum extent practicable, best management practices shall be located to treat runoff prior to discharge to navigable surface waters.

(2) Post-construction best management practice for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations.

(g) The Administrator may approve off-site management measures provided that all of the following conditions are met:

(1) The Administrator determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City 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:

(i) The facility is in place;

(ii) The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this section; and

(iii) 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 Administrator exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined by the Administrator and approved by the Board of Public Works. In determining the fee for post-construction runoff, the Administrator shall consider an equitable distribution of the cost for land, engineering design, construction and maintenance of the regional treatment option.

9. Alternate Requirements: The Administrator may establish storm water management requirements more stringent than those set forth in this section if the Administrator determines that an added level of protection is needed to protect sensitive



resources.

(E) Permit: No responsible party may undertake a land disturbing construction activity without receiving a post-construction storm water permit from the Administrator prior to commencing the proposed activity.

1. Permit Application and Fees: Unless specifically excluded by this Chapter, any responsible party desiring a permit shall submit to the Administrator a permit application made on a form provided by the Administrator for that purpose. A permit application must be accompanied by a post-construction storm water management plan, a maintenance agreement and a non-refundable permit fee paid to the Administrator. The plan and maintenance agreement shall be prepared to meet the requirements of this section.

2. Review and Approval of Permit Application: The Administrator shall review any permit application that is submitted and the following approval procedures shall be used:

(a) Within 15 business days of receipt of a complete permit application, the Administrator shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.

(b) If the 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 Administrator shall issue the permit.

(c) If the permit application, plan or maintenance agreement is disapproved, the Administrator shall detail in writing the reasons for disapproval.

(d) The Administrator may request additional information from the applicant. If additional information is submitted, the Administrator 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 Administrator to inform the permit applicant of a decision within 60 business days of a required submittal shall be deemed an approval and the applicant may proceed as if a permit had been issued.

3. Permit Conditions: All permits issued under this section shall be subject to the following conditions and the holders of permits issued under this section shall be deemed to have accepted these conditions.

(a) The responsible party must comply with all applicable federal, state and local laws and regulations.

(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 permit.

(c) The responsible party shall notify the Administrator at least 5 business days before commencing any work in conjunction with the post-construction storm water management plan, and within 5 business days upon completion of the storm water management practices. If required as a special condition under subsection (E)3(m) of this section, the responsible party shall make additional notifications according to a schedule set forth by the Administrator so that installation of storm water management practices can be inspected during construction.

(d) Installation of storm water management practices required as part of this Chapter shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Administrator or designee to determine if they are in accordance with the approved storm water management plan and this Chapter. The Administrator or designee shall notify the responsible party in writing of any changes required and such practices to bring them into compliance with the conditions of this permit.

(e) The responsible party shall notify the Administrator of any significant modifications it intends to make to an approved storm water management plan. The Administrator may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.

(f) The responsible party shall maintain all storm water management practices in accordance with the post-construction storm water management plan until such practices either become the responsibility of the City, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(g) The responsible party authorizes the Administrator to perform any work or operations necessary to bring storm water management practices into conformance with the approved post-construction storm water management plan, and consents to a special assessment or charge against the property or to charging such costs against the posted financial guarantee.

(h) If directed by the Administrator, the responsible party shall repair at the responsible party's expense all damage to



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

(i) The responsible party shall permit property access to the Administrator or designee for the purpose of inspecting the property for compliance with the approved post-construction storm water management plan and permit.

(j) Where site development or redevelopment involves changes in direction, or increases in peak rate or total volume of runoff from a site, the Administrator may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

(k) The responsible party is subject to the enforcement actions and penalties detailed in Section 5-18-7, if the responsible party fails to comply with the terms of this permit.

(l) The Administrator may suspend or revoke a permit for violation of a permit condition following written notification of the responsible party. Any action by the Administrator to suspend or revoke this permit may be appealed in accordance with Section 5-18-9.

(m) Permits issued under this section may include conditions established by the Administrator in addition to the requirements needed to meet the performance standards in subsection (D) or a financial guarantee in subsection (E) of this section.

4. Permit Duration: Permits issued under this section shall be valid from the date of issuance through the date the Administrator notifies the responsible party that all storm water management practices have passed the final inspection required under subsection (E)3(d) of this section.

(F) Maintenance Agreement: The maintenance agreement is an agreement between the City and the responsible party to provide for maintenance of storm water management practices beyond the duration period of the permit.

1. Maintenance Agreement Filed: The maintenance agreement shall be filed with the Green 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. Maintenance Agreement Provisions: The maintenance agreement shall contain the following information and be consistent with the storm water management plan.

(a) Identification of the storm water facilities and designation of the drainage area served by the facilities.

(b) Schedule for regular maintenance of each aspect of the storm water management system consistent with the post-construction storm water management plan.

(c) Identification of the responsible party or parties, organization, city, town, village or county responsible for long-term maintenance of the storm water management practices identified in the storm water management plan.

(d) Requirement that the responsible party or parties, organization, city, town, village or county shall maintain storm water management practices in accordance with the schedule included in subsection (F)2(b) of this section.

(e) Authorization for the Administrator or designee to access the property to conduct inspections of storm water management practices as necessary to ascertain that such practices are being maintained and operated in accordance with the agreement.

(f) Requirement on the City 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 subsection (F)2(c) of this section as responsible for long term maintenance of the storm water management practices and shall be notified by the City of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the City.

(h) Authorization of the City to perform the corrected actions identified in the inspection report if the responsible party designated under subsection (F)2(c) of this section does not make the required corrections in the specified time period. The City shall enter the amount due on the tax rolls and collect the money as a special assessment against the property.

(G) Financial Guarantee: The Administrator may require the submittal of a financial guarantee.



1. Establishment of the Guarantee: The financial guarantee shall be in an amount, form and type determined by the Administrator to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Administrator the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, and upon written notice to the responsible party by the Administrator that the requirements of this Chapter have not been met.

2. Conditions for Release: Conditions for the release of the financial guarantee are as follows:

(a) The Administrator shall release the portion of the financial guarantee established, less any costs incurred by the City to complete installation of storm water management practices, upon submission of "as built plans" by a licensed professional engineer. The City may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(b) The Administrator shall release a portion of the financial guarantee to assure maintenance of storm water management practices, less any costs incurred by the Administrator, at such time that the responsibility for storm water management practice maintenance is passed onto another entity via an approved maintenance agreement.

5-18-5: Erosion and sediment control:

(A) Applicability: This section applies to the following land disturbing construction activities except as provided under subsection (A)7 of this section:

1. The construction of houses or commercial, industrial or institutional buildings on lots of approved subdivision plats and certified survey maps.

2. The grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting 400 cubic yards or more of dirt, sand or other excavation or fill material.

3. The excavation or filling or a combination thereof affecting 400 cubic yards or more of dirt, sand or other excavation or fill material.

4. The construction enlargement, relocating or reconstruction of streets, highways, roads or bridges.

5. The laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300 feet or more.

6. This section does not apply to the following activities:

(a) The construction of a building that is regulated under Sections COMM 21.125 and COMM 50.115 of the Wisconsin Administrative Code.

(b) A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit for land disturbing construction activity.

(c) Nonpoint source pollution from agricultural facilities and silviculture activities.

(d) Routine maintenance for project sites under 5 acres of land disturbing construction activity if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

7. Notwithstanding the applicability requirements in subsection (A)1 through (A)6 of this section, this section applies to construction sites of any size that, in the opinion of the Administrator, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.

(B) Technical Standards: All best management practices required to comply with this section shall meet the design criteria, standards and specifications based on the following:

1. Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources;

2. Average annual basis calculated by using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance; and

3. Other technical standards not identified or developed in subsection (B)1 or (B)2 of this section, that have been



approved by the Administrator.

(C) Plan: The responsible party shall develop and implement a written erosion and sediment control plan for each construction site identified in subsection (A) of this section that incorporates the requirements of this section.

1. Plan Requirements: The erosion and sediment control plan shall be prepared and submitted to the Administrator. The erosion and sediment control plan shall be designed to meet the erosion control performance standards and other requirements of this section, and address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site.

(a) The erosion and sediment control plan shall include the following:

(i) Statement that briefly describes the site and the best management practices that will be used, including the site development schedule.

(ii) Names and addresses of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm.

(iii) Start and end dates for construction.

(iv) Description of the site and the nature of the land disturbing construction activity, including a representation of the limits of land disturbing construction activity on a United States Geological Service 7.5 minute series topographic map.

(v) A sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, buildings and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

(vi) Estimates of the total area of the site and the total area of the site that is expected to be disturbed by land disturbing construction activities.

(vii) Estimates, including calculations, if any, of the runoff coefficient of the site before and after land disturbing construction activities are completed.

(viii) Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.

(ix) Existing data describing the surface soil as well as subsoils.

(x) Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.

(xi) Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.

(xii) Site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet. The site map shall include the following:

a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters including lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site, and any identified 100-year flood plains, flood fringes and floodways.

b. Boundaries of the construction site.

c. Drainage patterns and approximate slopes anticipated after major grading activities.

d. Areas of soil disturbance.

e. Location of major structural and non-structural controls identified in the plan.

f. Location of areas where stabilization practices will be employed.

g. Areas which will be vegetated following construction.



wetland.

- h. Extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
- i. Locations of all surface waters and wetlands within one mile of the construction site.
- j. An alphanumeric or equivalent grid overlying the entire construction site map.

(xiii) Description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the Administrator, structural measures shall be installed on upland soils.

- c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
- d. Trapping of sediment in channelized flow.
- e. Staging construction to limit bare areas subject to erosion.
- f. Protection of downslope drainage inlets where they occur.
- g. Minimization of tracking at all sites.
- h. Clean up of off-site sediment deposits.
- i. Proper disposal of building and waste materials at all sites.
- j. Stabilization of drainage ways.
- k. Control of soil erosion from dirt stockpiles.
- l. Installation of permanent stabilization practices as soon as possible after final grading.
- m. Minimization of dust to the maximum extent practicable.

(b) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

2. The applicant shall amend the plan if any of the following occur:

(a) There is a change in design, construction, operation or maintenance at the site which has a reasonable potential for the discharge of pollutants to the waters of the state and which has not otherwise been addressed in the plan.

(b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(c) The Administrator notifies the applicant of changes needed in the plan.

(D) Permit: No responsible party may commence a land disturbing construction activity under this section without receiving prior approval of an erosion and sediment control plan for the site and a permit from the City.

1. Permit Application and Fees: At least one responsible party desiring to undertake a land disturbing construction activity subject to this section shall submit an application for a permit, an erosion and sediment control plan and pay a fee. By submitting an application, the applicant is authorizing the Administrator to enter the site to obtain information required for the review of the erosion and sediment control plan.

2. Review and Approval of Permit Application: The Administrator shall review any complete permit application. The



following approval procedure shall be used:

- (a) Within 15 business days of the receipt of a complete permit application, the Administrator shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this Chapter.
- (b) If the permit application and plan are approved, the Administrator shall issue the permit.
- (c) If the permit application or plan is disapproved, the Administrator shall state in writing the reasons for disapproval.
- (d) The Administrator may request additional information from the applicant. After additional information is submitted, the Administrator shall have 10 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(e) Failure by the Administrator to inform the permit applicant of a decision within 60 business days of a required submittal shall be deemed an approval of the submittal and the applicant may proceed as if a permit had been issued.

3. Surety Bond: As a condition of approval and issuance of the permit, the Administrator may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

4. Permit Conditions: All permits require the responsible party to:

- (a) Notify the Administrator within 48 hours of commencing any land disturbing construction activity.
- (b) Notify the Administrator of completion of any best management practices within 14 days after their installation.
- (c) Obtain permission in writing from the Administrator prior to any modification pursuant to Section 5-18-5(C)2 of the erosion and sediment control plan.
- (d) Install all best management practices.
- (e) Maintain all road drainage systems, storm water drainage systems, best management practices and other facilities.
- (f) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
- (g) Inspect the best management practices within 24 hours after each rainfall of 0.5 inches or more which results in runoff during active construction periods, and at least once each week to make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection and a description of the present phase of the construction at the site.
- (h) Allow the Administrator to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan.
- (i) Keep a copy of the erosion and sediment control plan at the construction site.
- (j) Include conditions established by the Administrator in addition to the requirements set forth in subsection (D)4(a) through (D)4(i) of this section, where needed to assure compliance with the performance standards in subsection (E) of this section.

5. Permit Duration: Permits issued under this section shall be valid for a period of 180 days or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Administrator may extend the period one or more times for up to an additional 180 days. The Administrator may require additional best management practices as a condition of the extension if they are necessary to meet the requirements of this Chapter.

6. Maintenance: The responsible party throughout the duration of the land disturbing construction activities shall maintain all best management practices necessary to meet the requirements of this Chapter until the site has undergone final stabilization.

(E) Performance Standards: The plan required under subsection (C) of this section shall meet the following requirements.

1. Plan Requirements: The erosion and sediment control plan shall include the following performance standards:



(a) Best management practices that, by design, achieve to the maximum extent practicable a reduction of 80 percent of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80 percent sediment reduction to meet the requirements of this subsection. Erosion and sediment control best management practices may be used alone or in combination to meet the requirements of this subsection. Credit toward meeting the sediment reduction shall be given for limiting the duration or area or both of land disturbing construction activity or other appropriate mechanism.

(b) Notwithstanding subsection (a) above, if best management practices cannot be designed and implemented to reduce the sediment load by 80 percent, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80 percent reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(c) Where appropriate, the plan shall include sediment controls to prevent or protect all of the following to the maximum extent practicable:

- (i) Tracking of sediment from the construction site onto roads and other paved surfaces.
- (ii) Discharge of sediment as part of site de-watering.
- (iii) Separate storm drain inlet structures from receiving sediment.

(d) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or best management practice installations, are not prohibited by subsection (E)1 of this section.

2. Location: The best management practices used to comply with this section shall be located prior to runoff entering waters of the state.

3. Alternate Requirements: The Administrator may establish erosion and sediment control requirements more stringent than those set forth in this section if the Administrator determines that an added level of protection is needed for sensitive resources.

5-18-6: Inspection:

If land disturbing construction activities are being carried out without a permit as required by this Chapter, the Administrator may enter the land pursuant to a special inspection warrant.

5-18-7: Enforcement and penalties:

(A) Violation: Any land disturbing construction activity or post-construction runoff initiated after the effective date of this Chapter by any person subject to this Chapter shall be deemed a violation unless conducted in accordance with the requirements of this Chapter.

(B) Non-Compliance Notice: The Administrator shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. Non-compliance includes bad faith implementation and failure to meet conditions of the permit.

1. The notice shall describe the nature of the violation, remedial actions necessary, a schedule for remedial action and additional enforcement action which may be taken.

2. Upon receipt of the non-compliance notice, the responsible party shall correct work that does not comply with the approved plan or other provisions of the permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Administrator in the non-compliance notice. If non-compliance is likely to result in damage to properties, public facilities or waters of the state, the Administrator may enter the land and take emergency actions necessary to prevent such damage.

3. If the responsible party does not correct work to comply with this Chapter and with an approved plan or other provisions of the permit within 15 days after the scheduled deadline in the non-compliance notice, the Administrator shall:

(a) Recommend that any person, firm, association or corporation who does not comply with the provisions of this Chapter be subject to a Class 1 forfeiture. Each day that the violation exists shall constitute a separate offense; and

(b) Post a stop work order on all land disturbing construction activity being undertaken without a permit or in violation



of this Chapter. After posting a stop work order, the Administrator may issue a notice of intent to the responsible party of the Administrator's intent to perform work necessary to comply with this Chapter. The Administrator and designees may go on the land and commence the work after issuing the notice of intent.

4. If the responsible party does not comply this Chapter, the non-compliance notice or a stop work order, the Administrator shall revoke the permit issued under this Chapter 30 days after the scheduled deadline in the non-compliance notice.

5. The Administrator may refer any violation of this Chapter or a stop work order issued pursuant to this Chapter to the City Attorney for the commencement of further legal proceedings in any court of competent jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunction proceedings.

(C) Duration: Any permit revocation, stop work order or cease and desist order may remain in effect unless retracted by the Administrator or by a court of competent jurisdiction.

(D) Costs: The costs incurred by the Administrator under subsection (B) of this section, plus interest and legal costs, shall be billed to the responsible party. The Administrator shall keep a detailed accounting of the costs and expenses of performing work. These costs and expenses shall be deducted from any financial guarantee posted pursuant to Section 5-18-4(H) of this Chapter. Where such a guarantee has not been posted, or where such a guarantee is insufficient to cover these costs, the costs and expenses may be entered on the tax roll as a special assessment against the property and collected with any other taxes levied thereon for the year in which the work is completed.

5-18-8: Fee schedule:

The fees referred to in this Chapter shall be established by the Council and may from time to time be modified by resolution.

5-18-9: Appeals:

The Zoning Board of Appeals shall hear and decide appeals made by any aggrieved person or by an officer, department, board or bureau of the City affected by any decision of the Administrator where it is alleged that there is error in any order, decision or determination made by the Administrator in administering this Chapter. Upon appeal, the Zoning Board of Appeals may authorize variances from the provisions of this Chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the provisions of this Chapter will result in unnecessary hardship. (11-5-2008)