CHAPTER 53

POST-CONSTRUCTION STORM WATER MANAGEMENT

53.01 PURPOSE AND INTENT.

A. 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:

(1) Further the maintenance of safe and healthful conditions.

(2) 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.

(3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(4) This ordinance applies to post-construction sites of any size that, as determined by the Public Works Director, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, causes undue channel erosion, or increase water pollution by scouring or the transport of particulate matter.

B. Intent. It is the intent of the Village Board that this ordinance regulates post-construction storm water discharges to the Municipal Separate Storm Sewer System (MS4) and waters of the state. This ordinance may be applied on a site-by-site basis. The Village Board recognizes, however, 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 the MS4 or 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 Village Board, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

53.02 AUTHORITY.

A. This ordinance is adopted by the Village Board under the authority granted by s. 61.354, Wis. Stats. Except as otherwise specified in s. 61.354 Wis. Stats., s. 61.35 Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

B. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

C. The Village Board hereby designates the Public Works Director to administer and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Public Works Director may be delegated in writing by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the Village of Allouez.

D. The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:

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

(2) Targeted performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

53.03 FINDINGS OF FACT.

The Village 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:

A. Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

B. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.

C. Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

D. Reduce the quality of groundwater by increasing pollutant loading.

E. Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

F. Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.

G. Undermine floodplain management efforts by increasing the incidence and levels of flooding.

53.04 DEFINITIONS.

Adequate sod, or self-sustaining vegetative cover: means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

Administering authority: means the Public Works Director whom is hereby designated by the Village Board to administer this ordinance.

Atlas 14: means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, volume 8 (Midwestern States), published in 2013.

Average annual rainfall: means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

Best management practice (BMP): means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to the MS4 or waters of the state.

Business day: means a day the Village Hall is routinely and customarily open for business.

Cease and desist order: means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit issued by the Public Works Director or Building Inspector as appropriate.

Combined sewer system: means a system for conveying both sanitary wastewater and storm water runoff.

Common plan of development or sale: means a 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. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

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.

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.

Design storm: means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The TR-55, Type II, 24-hour design storms for the Village of Allouez are: 1-year, 2.2 inches; 2-year, 2.5 inches; 5-year, 3.2 inches; 10-year, 3.7 inches; 25-year, 4.3 inches; 50-year, 4.8 inches; and 100-year, 5.1 inches.

Development: means residential, commercial, industrial, institutional, or other land uses and associated roads.

Division of land: means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5-year period.

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

Erosion: means the process by which the land's surface is worn away by

the action of wind, water, ice or gravity.

Exceptional resource waters: means waters listed in s. NR 102.11, Wis. Adm. Code.

Existing development: means development in existence on October 1, 2004, or development for which a storm water permit in accordance with subch. III of Ch. NR 216, Wis. Adm. Code, was received on or before October 1, 2004.

Filtering layer: means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; and engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

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.

Financial guarantee: means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Public Works Director by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.

Governing body: means the village board of trustees.

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

Highway reconditioning: has the meaning given in s. 84.013 (1)(b), Wis. Stats.

Highway reconstruction: has the meaning given in s. 84.013(1)(c), Wis. Stats.

Highway resurfacing: has the meaning given in s. 84.013(1)(d), Wis. Stats.

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 surfaces are considered impervious, unless specifically designed to encourage infiltration.

In-fill area: means a new development area less than 5 acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or man-made features where development cannot occur.

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 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.

Karst feature: means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

Land disturbing construction activity (or disturbance): 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 the MS4 or waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

Landowner: means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.

Maintenance agreement: means a legal document that provides for long-term maintenance of storm water management and best management practices.

Maximum extent practicable (MEP): means the highest level of performance that is achievable but is not equivalent to a performance standard identified within this ordinance. Maximum extent practicable applies when the permit applicant demonstrates to the Public Works Director's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the permit applicant shall take into account the best available technology, cost effectiveness, geographic features, 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.

Minor reconstruction of a highway: means reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening.

Municipal Separate Storm Sewer System (MS4): As defined in Wisconsin Administrative Code NR 216, means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

(a) Owned or operated by a municipality.
(b) Designed or used for collecting or conveying storm water.

(c) Which is not a combined sewer conveying both sanitary and storm water.
(d) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

New development: means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development.

NRCS MSE3 or MSE4 distribution: means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.

Off-site: means located outside the property boundary described in the permit application.

On-site: means located within the property boundary described in the permit application.

Ordinary high-water mark: has the meaning given in s. NR 115.03(6), Wis. Adm. Code.

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

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

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

Permit: means a written authorization made by the Public Works Director to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to the MS4 or waters of the state.

Permit administration fee: means a sum of money paid to the Village of Allouez by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

Pervious surface: means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant: has the meaning given in s. 283.01(13), Wis. Stats.

Pollution: has the meaning given in s. 281.01(10), Wis. Stats.

Post-construction site: means a construction site following the completion of land disturbing construction activity and final site stabilization. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

Post-development: means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final stabilization.

Pre-development: means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Preventive action limit: has the meaning given in s. NR 140.05(17), Wis. Adm. Code.

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.

Redevelopment: means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development condition is classified as redevelopment.

Responsible party: means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.

Routine maintenance: means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower ½ of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower ½ of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed.

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.

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

Stop work order: means an order issued by the Public Works Director which requires that all construction activity on the site be stopped.

Storm water management plan: means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has under gone final stabilization following completion of the construction activity.

Storm water management system plan: is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

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

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.

Total maximum daily load (TMDL): means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

TP-40: means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

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.

Transportation facility: means a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Stats.

TSS: means total suspended solids.

Type II distribution: means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

Waters of the state: has the meaning given in s. 281.01 (18), Wis. Stats.

53.05 APPLICABILITY AND JURISDICTION.

(1) Applicability.

(1) Where not otherwise limited by law, this ordinance applies to all post-construction sites, unless the site is otherwise exempt under 53.05 A.(2).

(2) A post-construction site that meets the criteria in this paragraph is exempt from the requirements of this ordinance.

(a) 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance.

(3) Notwithstanding the applicability requirements in 53.05 A. (1), this ordinance applies to post-construction sites of any size that, in the opinion of the Public Works Director, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that may cause excessive site 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 Village of Allouez.

C. 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.

53.06 TECHNICAL STANDARDS.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling / vehicle maintenance components of storm water practices needed to meet the water quality standards of this ordinance:

A. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

B. Technical standards and guidance identified within the Technical Reference Guide identified in Section 53.16.

C. 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 Public Works Director.

D. In this ordinance, the following year and location has been selected as average annual rainfall: Green Bay, 1969 (March 29-November 25).

53.07 PERFORMANCE STANDARDS.

A. Responsible Party. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this ordinance.

B. Plan. A written storm water management plan in accordance with 53.09 shall be developed and implemented for each post-construction site.

C. Maintenance of Effort. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.

D. Requirements. The storm water management plan shall meet the following minimum requirements to the maximum extent practicable:

(1) Water Quality. BMPs shall be designed, installed and maintained to control pollutants carried in runoff from a post-construction site as follows. The design shall be based on the average annual rainfall, as compared to no runoff management controls.

(a) For post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with 1 acre or more of land disturbance, the following is required:

1. Except as provided in 53.07 C.(1)(a)2., a total suspended solids (TSS) and total phosphorus (TP) load reduction is required as follows:

Table 1 TSS and TP Load Reduction

Watershed	New Development		Redevelopment		Routine Maintenance	
	TSS	TP	TSS	TP	TSS	TP
East River TMDL	80%	41%	52%	41%	52%	41%
Fox River TMDL	80%	41%	72%	41%	72%	41%

(2) No total suspended solids load reduction is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed water quality BMP.

(b) For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce the total suspended solids and total phosphorus load using BMPs from the Technical Reference Guide. These

sites are not required to satisfy a numeric performance standard but are required to be designed to maximize the removal of these pollutants.

(c) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption of this ordinance are required to satisfy the performance standards within 53.07 D.(1)(a), (b), and (c).

(d) The amount of total suspended solids and total phosphorus removal previously required for the site shall not be reduced as a result of the proposed development or disturbance.

(e) When designing BMPs, runoff draining to the BMP from offsite areas shall be taken into account in determining the treatment efficiency of the practice. Any impact on the BMP efficiency shall be compensated for by increasing the size of the BMP accordingly. The pollutant load reduction provided by the BMP for an off-site area shall not be used to satisfy the required onsite pollutant load reduction, unless otherwise approved by the Public Works Director in accordance with 53.07 E.

(f) Notwithstanding subchs. (a) to (d), if the design cannot achieve the applicable total suspended solids and total phosphorus 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 and phosphorus load shall be reduced to the maximum extent practicable. Except as provided in 53.07 F., the Public Works Director may not require any person to exceed the applicable water quality performance standard to meet the requirements of maximum extent practicable.

(2) Peak Discharge. BMPs shall be designed, installed and maintained to control peak discharges from a post-construction site as follows:

(a) For post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with 1 acre or more of land disturbance, the following is required:

1. The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the 1-year, 2-year, 10-year, and 100-year, 24-hour design storms. These peak discharge requirements apply to new development

and redevelopment areas. No peak discharge control is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed peak flow control facility.

2. TR-55 methodology shall be used for peak discharge calculations, unless the Public Works Director approves an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. Peak pre-development discharge rates shall be determined using the following runoff curve numbers. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, the Public Works Director may allow the use of TP-40 precipitation depths and the Type II distribution. Unless the site is currently woodland, peak predevelopment discharge rates shall be determined using the runoff curve numbers for a meadow vegetative cover.

Table 2 Maximum Pre-Development Curve Numbers (CN)

Hydrologic Soil Group	A	B	C	D
Grassland CN	39	61	71	78
Woodland CN	30	55	70	77
Meadow CN	30	58	71	78
Lawn CN	39	61	74	80
Impervious CN	98	98	98	98

(b) For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce peak post-development discharge rates using BMPs from the Technical Reference Guide. These sites are not required to satisfy a numeric performance standard but are required to comply with the design criteria in this ordinance to the maximum extent possible.

(c) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption of this ordinance (August 1, 2016) are required to satisfy the performance standards within 53.07 D.(2)(a) 1. and 2.

(d) The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

(e) When designing BMPs, runoff draining to the BMP from off-site areas shall be taken into account in determining the performance of the practice. Any impact on the BMP performance shall be compensated for by increasing the size of the BMP accordingly. The peak discharge reduction provided by the BMP for an off-site area shall not be used to satisfy the required on-site peak discharge reduction, unless otherwise approved by the Public Works Director in accordance with 53.07 E.

(f) An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.

(g) Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of this paragraph (2) provided the transportation facility is not part of a larger common plan of development or sale:

1. A transportation facility where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.
2. A highway reconstruction site.
3. A transportation facility that is part of a redevelopment project.

(3) Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable.

(a) For post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with 1 acre or more of land disturbance, one of the following is required.

1. *Low imperviousness.* For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% 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.
2. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent

connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

3. *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall.

(b) Pre-development condition shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the Public Works Director. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. The actual pre-development vegetative cover and runoff curve numbers shall be as in Table 2.

(c) For residential and non-residential developments with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the Technical Reference Guide. These sites are not required to satisfy a numeric performance standard but are required to comply with the design criteria in this ordinance to the maximum extent possible.

(d) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption of this ordinance are required to satisfy the performance standards within 53.07 C.(3)(a), (b), and (c).

(e) The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.

(f) When designing BMPs, runoff draining to the BMP from offsite areas shall be taken into account in determining the performance of the practice. Any impact on the BMP performance shall be compensated for by increasing the size of the BMP accordingly.

The runoff volume reduction provided by the BMP for an offsite area shall not be used to satisfy the required onsite runoff volume reduction, unless otherwise approved by the Public Works Director with 53.07 E.

(g) *Pretreatment*. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with 53.07 C.(3)(k). Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, bio-filtration, filtration, swales or filter strips.

(h) *Source area prohibitions*. Infiltration of runoff from the following areas are prohibited:

1. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking. Rooftops may be infiltrated with the concurrence of the Public Works Director.
2. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code. Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.
3. Fueling and vehicle maintenance areas. Rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the Public Works Director.

(i) *Prohibitions.* Infiltration practices may not be located in the following areas:

1. Areas within 1000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.

2. 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.
3. 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.

(j) *Source area exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas are optional:

1. Parking areas and access roads less than 5,000 square feet for commercial development.
2. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under par a.
3. Except as provided under 53.07 C., redevelopment post-construction sites.
4. In-fill development areas less than 5 acres.
5. Roads in commercial, industrial and institutional land uses, and arterial residential streets.
6. Except as provided under 53.07 C.(3)(e), transportation facilities, highway reconstruction, and new highways.

(k) *Separation distances.* Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and elevation of seasonal high groundwater or the top of bedrock are in accordance with the following:

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 or 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 subchs (h)9. does not prohibit infiltration of roof runoff.

Table 3. Separation Distances and Soil Characteristics

Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer

Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

Notwithstanding 53.07 C.(3)(k), applicable requirements for injection wells classified under ch. NR 815, Wis. Adm. Code, shall be followed.

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

1. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site using a scientifically credible field test method.
2. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay or clay.

(m) *Alternate uses.* Where alternate uses of runoff are employed, such as for toilet flushing, laundry, irrigation, or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required.

(n) *Groundwater Standards.*

1. 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.

2. Notwithstanding subd. par. 1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(o) Where conditions of 53.07 C.(3)(h) through (l) limit or restrict the use of infiltration practices, the performance standard of 53.07 C.(3) shall be met to the maximum extent practicable.

(4) Protective Areas.

(a) "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.

1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 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 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.
5. 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.
6. In subd. (a)1., 4., and 5., 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 103.03.
7. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
8. Wetlands shall be delineated. Wetland boundary

delineations shall be made in accordance with s. NR 103.08(1m). This paragraph (4) 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.

9. For concentrated flow channels with drainage Areas greater than 130 acres, 10 feet.
10. Notwithstanding 53.07 C.(4)(a)1. to 9., the Greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

(b) This paragraph (4) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. (f) below.

(c) 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% 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, maybe employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
3. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

(d) A protective area established or created after the adoption of this ordinance shall not be eliminated or reduced, except as allowed in subd. (f)2., 3., or 4. below.

(e) Exemptions. The following areas are not required to meet the protective area requirements of this paragraph (4):

1. Redevelopment and routine maintenance areas provided the minimum requirements within in subd. (e) above are satisfied.
2. Structures that cross or access surface waters such as boat landings, bridges and culverts.
3. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
4. Post-construction sites from which runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the requirements of 53.07 C.(1) and (2), except to the extent that vegetative ground cover is necessary to maintain bank stability.

(5) Fueling and Vehicle Maintenance Areas. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters the MS4 or waters of the state contains no visible petroleum sheen.

(6) Swale Treatment for Transportation Facilities. This 53.07 C.(6) is not applicable to transportation facilities that are part of a larger common plan of development or sale.

(a) Requirement. Except as provided in subd. (b), transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following or to the maximum extent practicable:

1. Swales shall 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.
2. Swales shall comply with the Wisconsin Department of Natural Resources Technical Standard 1005, "Vegetated Infiltration Swale", except as otherwise authorized in writing by the Wisconsin Department of Natural Resources.

(b) Other requirements. Notwithstanding 53.07 C.(6)(a), the Public Works Director 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:

1. An outstanding resource water.
2. An exceptional resource water.
3. 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.

4. Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(7) Exemptions. The following areas are not required to meet the performance standards within 53.07 C.:

(a) Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

(b) The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.

1. Reconditioning or resurfacing of a highway.
2. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within NR 151.24(6) Wisconsin Administrative Code apply to minor reconstruction of a highway.
3. Routine maintenance if performed for storm water conveyance system cleaning.
4. A transportation facility with less than 10% connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre. Notwithstanding this exemption, the protective area requirements of 53.07 C.(4)still apply.
5. Routine maintenance for transportation facilities that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

D. General Considerations For On-Site and Off-Site Storm Water Management Measures. The following considerations shall be observed in managing runoff:

(1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(2) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

E. Location and Regional Treatment Option.

(1) *General.* To comply with 53.07 C. performance standards, the BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.

(2) *Offsite or regional BMP.* The Public Works Director may authorize credit for an off-site or regional BMP provided that all of the following conditions are satisfied:

(a) The Public Works Director determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Village of Allouez and that contains management requirements consistent with the purpose and intent of this ordinance.

(b) The off-site facility meets all of the following conditions:

1. The BMP facility has received all applicable permits and is in place.
2. The BMP shall be installed and operational before the construction site has undergone final stabilization.
3. The BMP 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 BMPs meeting the 53.07 C. performance standards.
4. The BMP owner has entered into a maintenance agreement with the Village of Allouez such that the BMP has a legally obligated entity responsible for its long-term operation and maintenance. Legal authority exists if a municipality owns, operates and maintains the BMP.
5. The owner of the BMP, such as the Village of Allouez, has provided written authorization which indicates the permit applicant may use the BMP for 53.07 C. performance standard compliance.
6. Where a regional treatment option exists such that the Public Works Director 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 Public Works Director. In determining the fee for post-construction runoff, the Public Works Director shall consider an equitable distribution of the cost for land, engineering

design, construction, and maintenance of the regional treatment option.

(3) *BMPs in non-navigable waters.* For purposes of determining compliance with the performance standards of 53.07 C., the Public Works Director may give credit for BMPs that function to provide treatment for runoff from existing development and post-construction runoff from new development, redevelopment, and routine maintenance areas and that are located within non-navigable waters.

(4) *BMPs in navigable waters.*

(a) *New Development runoff.* Except as allowed under 53.07 E.(4)(b), BMPs designed to treat post-construction runoff from new development areas may not be located in navigable waters and, for purposed of determining compliance with the performance standards of 53.07 C., the Public Works Director may not give credit for such BMPs.

(b) *New development runoff exemption.* BMPs to treat post-construction runoff from new development areas maybe located within navigable waters and may be creditable by the Public Works Director under 53.07 C., if all of the following are met:

1. The BMP was constructed prior to October 1, 2002 and received all applicable permits.
2. The BMP functions or will function to provide runoff treatment for the new development area.

(c) *Existing development and post-construction runoff from redevelopment, routing maintenance, and infill development areas.* Except as provided in 53.07 E.(4)(d), BMPs designed to treat post-construction runoff for existing development and post-construction runoff from development, routine maintenance and infill development areas may not be located in navigable waters and, for purposes of determining compliance with the performance standards of 53.07 C., the Public Works Director may not give credit for such BMPs.

(d) *Existing development and post-construction runoff from redevelopment, routine maintenance, and infill development areas exemption.* BMPs that function to provide treatment of runoff from existing development and post-construction runoff from redevelopment, routine maintenance and infill development areas maybe located within navigable waters and, for purposes of determining compliance with the performance standards of 53.07 C., the Public Works

Director may give credit for such BMPs, if any of the following are met:

1. The BMP was constructed, contracts were signed or bids advertised and all applicable permits were received prior to January 1, 2011.
2. The BMP is on an intermittent waterway and all applicable permits are received.

(5) *Water quality trading.* To comply with 53.07 C.(1) performance standards, the Public Works Director may authorize credit for water quality trading provided all of the following conditions are satisfied:

(a) The treatment practices associated with a water quality trade shall be in place, effective and operational before credit can be authorized.

(b) The water quality trade shall comply with trading ratios Established by the Wisconsin Department of Natural Resources or the Public Works Director.

(c) The water quality trade shall comply with applicable regulations, standards, and guidance developed by the Wisconsin Department of Natural Resources.

(d) The responsible party shall furnish a copy of executed water quality trading agreements or other related information deemed necessary by the Public Works Director in order to authorize credit.

F. Targeted Performance Standards. The Public Works Director may Establish numeric water quality requirements that are more stringent than those set forth in 53.07 C. in order to meet the targeted performance standards, total maximum daily loads, and/or water quality standards for a specific water body or area. The numeric water quality requirements may be applicable to any permitted site, regardless of the size of land disturbing construction activity.

G. Alternate Requirements. The Public Works Director may establish storm water management requirements more stringent than those set forth in this section if the Public Works Director determines that an added level of protection is needed to protect sensitive resources or improve flooding problems. Also, the Public Works Director may establish storm water management requirements less stringent than those set forth in this section if the Public Works Director determines that less protection is needed to protect sensitive resources and provide reasonable flood

protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by Wisconsin Department of Natural Resources under NR 151 Wisconsin Administrative Code.

53.08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

A. Permit Required. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Public Works Director prior to commencing the proposed activity.

B. Permit Application and Fees. Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Public Works Director a permit application made on a form provided by the Public Works Director for that purpose.

(1) Unless otherwise accepted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.

(2) The storm water management plan shall be prepared to meet the requirements of 53.07 and 53.09, the maintenance agreement shall be prepared to meet the requirements of 53.10, the financial guarantee shall meet the requirements of 53.11, and fees shall be those established by the Village Board as set forth in 53.12.

C. Review and Approval of Permit Application. The Public Works Director 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:

(1) Within 20 business days of the receipt of a complete permit application, including all items as required by sub. B, the Public Works Director shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(2) 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 Public Works Director shall issue the permit.

(3) If the storm water permit application, plan or maintenance agreement is disapproved, the Public Works Director shall detail in writing the reasons for disapproval.

(4) The Public Works Director may request additional information from the applicant. If additional information is submitted, the Public Works Director shall have 20 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.

(5) Failure by the Public Works Director 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.

D. 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 Public Works Director may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Public Works Director to suspend or revoke this permit may be appealed in accordance with 53.14.

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

(2) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.

(3) The responsible party shall notify the Public Works Director at least 10 business days before commencing any work in conjunction with the storm water management plan, and within 10 business days upon completion of the storm water management practices. If required as a special condition under sub. E., the responsible party shall make additional notification according to a schedule set forth by the Public Works Director so that practice installations can be inspected during construction.

(4) 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 Public Works Director or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Public Works Director 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.

(5) The responsible party shall notify the Public Works Director of any significant modifications it intends to make to an approved storm water management plan. The Public Works Director 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.

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

(7) The responsible party authorizes the Public Works Director 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 53.11.

(8) If so directed by the Public Works Director, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.

(9) The responsible party shall permit property access to the Public Works Director or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

(10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Public Works Director may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety. The responsible party is subject to the enforcement actions and penalties detailed in 53.13, if the responsible party fails to comply with the terms of this permit.

(11) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

E. Permit Conditions. Permits issued under this subsection may include conditions established by the Public Works Director in addition to the requirements needed to meet the performance standards in 53.07 or a financial guarantee as provided for in 53.11.

F. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the Public Works Director notifies the responsible party that all storm water management practices have passed the final inspection required under sub. D(4).

G. Alternate Requirements. The Public Works Director may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards under 53.07

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

53.09 STORM WATER MANAGEMENT PLAN.

A. Plan Requirements. The storm water management plan required under 53.08 B. shall comply with the Technical Reference Guide and contain at a minimum the following information:

(1) Name, address, and telephone number of the landowner and responsible parties.

(2) A legal description of the property proposed to be developed.

(3) Pre-development site map with property lines, disturbed limits, and drainage patterns.

(4) Post-development site map with property lines, disturbed limits, and drainage patterns.

(a) Total area of disturbed impervious surfaces within the site.

(b) Total area of new impervious surfaces within the site.

(c) Performance standards applicable to site.

(d) Proposed best management practices.

(e) Groundwater, bedrock, and soil limitations.

(f) Separation distances. Storm water management practices shall be adequately separated from wells to prevent contamination of drinking water.

B. Alternate Requirements. The Public Works Director may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 53.07 E. or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

53.10 MAINTENANCE AGREEMENT.

A. Maintenance Agreement Required. The maintenance agreement required under 53.08 B. for storm water management practices shall be an agreement between the Village of Allouez 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 Brown 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.

B. Agreement Provisions. The maintenance agreement shall contain the following information and provisions:

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

(2) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under 53.08 B.

(3) 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 53.08 B.

(4) 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. (2).

(5) Authorization for the Public Works Director 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.

(6) A requirement on the Public Works Director 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.

(7) Agreement that the party designated under par. (3), as responsible for long term maintenance of the storm water management practices, shall be notified by the Public Works Director of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Public Works Director.

(8) Authorization of the Public Works Director to perform the corrected actions identified in the inspection report if the responsible party designated under par. (3) does not make the required corrections in the specified time period. The Public Works Director 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.

C. Alternate Requirements. The Public Works Director may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards under 53.07 E. or for applicants seeking a permit for a post-construction

site with less than 20,000 square feet of impervious surface disturbance.

53.11 FINANCIAL GUARANTEE.

A. Establishment of the Guarantee. The Public Works Director may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Village of Allouez. The financial guarantee shall be in an amount determined by the Public Works Director 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 Public Works Director 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 Public Works Director that the requirements of this ordinance have not been met.

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

(1) The Public Works Director shall release the portion of the financial guarantee established under this section, less any costs incurred by the Public Works Director to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Public Works Director may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(2) The Public Works Director 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 Public Works Director, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

C. Alternate Requirements. The Public Works Director may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards under 53.07 E. or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

53.12 FEE SCHEDULE.

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

53.13 ENFORCEMENT.

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 Public Works Director 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 Public Works Director under sub. B., 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 Public Works Director 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 Public Works Director may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Public Works Director plus interest and legal costs shall be billed to the responsible party.

E. The Public Works Director 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 Village Attorney to obtain a cease and desist order in any court with jurisdiction.

F. The Public Works Director 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 Public Works Director or by a court with jurisdiction.

H. The Public Works Director 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 Village 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 $100 dollars or more than $1,000 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 injunctional proceedings.

K. When the Public Works Director 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 Public Works Director or a party designated by the Public Works Director 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 Public Works Director 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 53.11 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.

53.14 APPEALS.

A. Appeals. Pursuant to Section 50.14 of the Village of Allouez Code of Ordinances and pursuant to 61.354(4)(b), Wis. Stats., the Village Board:

(1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Public Works Director in administering this ordinance except for cease and desist orders obtained under 53.13 E.

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

(3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

B. Who May Appeal. Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the Village of Allouez affected by any decision of the Public Works Director.

53.15 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.

53.16 TECHNICAL REFERENCE GUIDE.

The Post-Construction Storm Water Management Technical Reference Guide is hereby incorporated into this ordinance. The Technical Reference Guide is intended to assist in interpretation and implementation of this ordinance.