

# Chapter 26

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## Storm Water Management

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**26.01 Authority**

- (1) This ordinance is adopted by the Common Council of the City of Sheboygan Falls under the authority granted by Wis. Stat. § 62.234. This ordinance supersedes all conflicting and contradictory stormwater management regulations previously enacted under Wis. Stat. § 62.23. Except as specifically provided for in Wis. Stat. § 62.234, Wis. Stat. § 62.23 applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Common Council of the City of Sheboygan Falls hereby designates the Director of City Services to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt stormwater management requirements that may be imposed by Wisconsin Pollutant Discharge Elimination System (WPDES) Permits issued by the WDNR under Wis. Stat. § 147.021.

WDNR administrative rules, permits or approvals including those authorized under Wis. Stat. §§ 281.16 and 283.33.

Targeted non-agricultural performance standards promulgated in rules by the WDNR under NR 151.004, Wisconsin Administrative Code.

**26.02 Findings of Fact**

The Common Council of the City of Sheboygan Falls finds that uncontrolled stormwater runoff from land development activity has a significant impact upon water resources and the health, safety, and general welfare of the community. Specifically, uncontrolled stormwater runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows, and increasing stream temperatures.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing loadings of sediments, suspended solids, nutrients, heavy metals, bacteria, pathogens, and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loads.
- (5) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities.
- (6) Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes.
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.
- (8) Diminish the public enjoyment of natural resources.

### 26.03 Purpose and Intent

(1) Purpose -

The purpose of this ordinance is to set forth long-term post construction stormwater requirements and criteria that will prevent and control water pollution, and diminish the threats to public health, safety, welfare, and aquatic life because of runoff of stormwater from land development or redevelopment.

Specific purposes are to:

- (a) Further the maintenance of safe and healthful conditions.
- (b) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; preserve ground cover and scenic beauty; and promote sound economic growth.
- (c) Control exceedances of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(2) Intent -

It is the general intent of the Common Council of the City of Sheboygan Falls that this ordinance achieve its purpose through:

- (a) Regulating long-term, post-construction stormwater discharges from land development and redevelopment activities.
- (b) Controlling the quantity, peak flow rates, and quality of stormwater discharges from land development and redevelopment activities.

Providing services to maintain and enhance the quality of life within the community.

To this end the City of Sheboygan Falls will manage stormwater to protect, maintain and enhance the natural environment; diversity of fish and wildlife; human life; property; and recreational use of waterways within the City of Sheboygan Falls and its extraterritorial area.

(3) Regional Facilities -

This ordinance may be applied on a site-by-site basis. The City of Sheboygan Falls recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to Waters of the State. Where such plans are in conformance with the performance standards developed under Wis. Stat. § 281.16 for regional stormwater management measures, are approved by the City of Sheboygan Falls and constructed; it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

## 26.04 Title

This ordinance shall be known as the Stormwater Management Ordinance for the City of Sheboygan Falls.

## 26.05 Definitions

- (1) "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, and at a minimum has an effective cover of 70 percent or greater as determined by the line-transect method, or an other WDNR approved method. Self-sustaining vegetative cover includes grasses, forbes, sedges, and duff layers of fallen leaves and woody debris.
- (2) "Administering authority" means a governmental employee that is designated by the City of Sheboygan Falls to administer this ordinance.
- (3) "Agricultural use" means bee keeping; commercial feed-lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participation in the mile production termination program under 7 USC 1446 (d); and vegetable raising [Wis. Stat. § 91.01(1)].
- (4) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical. An average annual rainfall for Green Bay, 1969 (March 29-November 25) is applicable for the City of Sheboygan Falls.
- (5) "Best Management Practice" or "BMPs" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to Waters of the State.
- (6) "Business day" means a day which offices of the City of Sheboygan Falls are routinely and customarily open for business.
- (7) "Cease and desist order" means a court issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (8) "City" means the City of Sheboygan Falls.
- (9) "Common plan of development or sale" means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land developing activity may take place at different times and on different schedules.
- (10) "Concentrated flow channel" means a channel produced by erosion from runoff, or by construction, that would not be removed by tillage operations typically needed to prepare a field for crop production.
- (11) "Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or to Water of the State via an impervious flow path.

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- (12) “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.
- (13) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. Rainfall amounts for 24-hour design rainfall events in the City of Sheboygan Falls are: 100-year, 5.4 inches; 10-year, 3.8 inches; 5-year, 3.3 inches; 2-year, 2.5 inches; and 1-year, 2.2 inches.
- (14) “Development” means new residential, commercial, industrial or institutional land uses, and associated roads.
- (15) “Discharge volume” means the quantity of runoff discharged from the land surface as the result of a rainfall event.
- (16) “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.
- (17) “Effective infiltration area” means the area of the infiltration system devoted specifically to active infiltration, this excludes areas required for site access, berms, pretreatment, or other area required for the installation, operation, or maintenance of the infiltration device.
- (18) “Erosion” means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
- (19) “Exceptional resource waters” means waters listed in NR 102.11, Wisconsin Administrative Code.
- (20) “Existing land use condition” means the condition of the proposed development site and the adjacent properties that is present at the time of the stormwater permit application. This term applies only for properly sizing the stormwater conveyance system in accordance to the requirements of this ordinance in Section 26.07(1) (b).
- (21) “Extraterritorial” means the unincorporated area as defined in Wis. Stat. § 236.
- (22) “Fee in lieu” means a payment of money to the City of Sheboygan Falls in place of meeting all or part of the stormwater performance standards required by this ordinance.
- (23) “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 that employ equivalent permanent stabilization measures.
- (24) “Financial guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Sheboygan Falls by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.
- (25) “Governing body” means, the City of Sheboygan Falls Common Council.

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- (26) “Illicit discharge” means any release to a municipal separate storm sewer that is not composed entirely of runoff, except discharges authorized by a WPDES permit or any other discharge not requiring a WPDES permit such as water line flushing, landscape irrigation, individual residential car washing, fire fighting, and similar discharges.
- (27) “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 surfaces that typically are impervious.
- (28) “In-fill” means undeveloped land located within existing urban areas, surrounded by already existing development, or existing development and natural or man-made features as shown on the in-fill map. The City shall establish a map identifying parcels of land in the City that constitute infill. The City shall update the infill map annually. As land is developed, the land shall no longer be included as infill, even though the infill map has not yet been updated. Updates of the map by the City shall not require committee or Council approval.
- (29) “Infiltration” means the process by which rain or surface runoff penetrates into the underlying soil.
- (30) “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 down spouts onto lawns, or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (31) “Land development (and land redevelopment) activity” means any activity that changes the volume or peak flow discharge rate of rainfall runoff or changes the amount of soil erosion, sediment, and pollutant loadings from the land surface. This applies to any change of land use except this term does not include agricultural activities.
- (32) “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 changes in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, but does not include agricultural facilities and practices, silviculture activities, or routine maintenance for project sites that involve under 5 acres of land disturbance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
- (33) “Landowner” means any person holding title to or having an interest in land.
- (34) “Land user” means any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
- (35) “Maintenance agreement” means a legal document that is filed with the County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (36) “MEP” or “maximum extent practicable” means a level of implementing best management practices to achieve a performance standard specified in this ordinance that takes into account the best

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available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features.

- (37) "Natural wetlands" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and that has soils indicative of wet conditions. These wetlands include existing, mitigation and restored wetlands.
- (38) "New development" means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (39) "Non-residential land development" means all development excluding residential development and agricultural use.
- (40) "Non-stormwater discharge" means a discharge to the storm sewer system created by some process other than the runoff from precipitation.
- (41) "Non-structural measure" means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants, in stormwater that does not require the design or installation of fixed stormwater management facilities.
- (42) "NRCS" means the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA) formerly know as the SCS (Soil Conservation Service of the USDA).
- (43) "Off-site" means lands located outside the subject property boundary described in the permit application for land development activity.
- (44) "On-site" means lands located within the subject property boundary described in the permit application for land development activity.
- (45) "Ordinary high-water mark" has the meaning in NR 115.03(6), Wisconsin Administrative Code.
- (46) "Outstanding resource waters" means waters listed in NR 102.10, Wisconsin Administrative Code.
- (47) "Peak flow or peak flow discharge rate" means the maximum rate at which a unit volume of stormwater is discharged. This is usually expressed in terms of cubic feet per second (cfs).
- (48) "Percent fines" means the percentage of a given sample of soil, that passes through a Number 200 sieve, in accordance with the "American Society for Testing and Materials", volume 04.02, "Test Method C117-95 Standard Test Method for Materials Finer than 75- $\mu$ m (No. 200) Sieve in Material Aggregates by Washing".
- (49) "Performance security" means cash, or an irrevocable letter of credit submitted to the City of Sheboygan Falls by the permit holder to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan and to recover any costs incurred by the City for design, engineering, preparation, checking and review of plans and specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance.
- (50) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

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- (51) "Permit" means a written authorization made by the City of Sheboygan Falls to the applicant to conduct land development activities.
- (52) "Permit application fee" means a sum of money paid to the City of Sheboygan Falls by the permit applicant for the purpose of recouping expenses incurred by the authority in administering the permit.
- (53) "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.
- (54) "Pollutant" has the meaning in Wis. Stat. § 283.01(13).
- (55) "Pollution" has the meaning in Wis. Stat. § 281.01(10).
- (56) "Population" has the meaning in Wis. Stat. § 281.66(1)(c).
- (57) "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (58) "Post-development land use condition" means the extent and distribution of land cover types, anticipated to occur under conditions of full development that will influence precipitation runoff and infiltration.
- (59) "Pre-development land use condition" means land that has runoff characteristics equivalent to Runoff Curve Numbers (RCNs) of: 30, 58, 71, and 78 for Hydrologic Soil Groups A, B, C, and D, respectively (as described in the USDA Soil Survey of Sheboygan County, Wisconsin, 1971). This term is used for the purpose of matching of pre- and post- development stormwater peak flows as required by this ordinance in Section 26.07(1)(a).
- (60) "Pre-treatment" is the practice of reducing pollutants in stormwater before discharging the stormwater to a wetland or infiltration system.
- (61) "Preventive action limit" has the meaning in NR 140.05(17), Wisconsin Administrative Code.
- (62) "Redevelopment" means areas where new development is replacing older development.
- (63) "Residential land development" means development that is created to house people, including the residential dwellings as well as all affected portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, apartment, and trailer parks.
- (64) "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 stormwater BMPs.
- (65) "Runoff" means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (66) "Runoff Curve Number" or "RCNs" means an index that represents the combination of: a hydrologic soil group, land use, land cover, impervious area, interception storage, surface storage, and

antecedent moisture conditions. RCNs convert mass rainfall into mass runoff. The NRCS defines RCNs in TR-55.

- (67) "Sediment" means settleable soil, rock fragments and other solids carried in runoff.
- (68) "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 sewer, which meets all of the following criteria:
  - (a) Is designed or used for collecting stormwater or conveying runoff.
  - (b) Discharges directly or indirectly to Waters of the State.
- (69) "Site" means the entire area included in the legal description of the land on which the land disturbing, land redeveloping, or land development activity is proposed in the permit application.
- (70) "SCS" means the Soil Conservation Service now know as Natural Resources Conservation Service of the United States Department of Agriculture.
- (71) "Stop work order" means an order issued by the City of Sheboygan Falls that requires that all construction activity on the site be stopped.
- (72) "Stormwater conveyance system" means any method employed to carry stormwater runoff within and from a land development or redevelopment activity to the Waters of the State. Examples of methods include: swales, channels, and storm sewers.
- (73) "Stormwater management plan" means a document provided by the land developer, land owner, or permit holder that identifies what actions will be taken to reduce stormwater quantity and pollutant loads from the post-development land use condition to levels meeting the requirements of this ordinance.
- (74) "Stormwater runoff" means that portion of precipitation that does not soak into the soil, and thus flows off the surface of the land and into the natural or manmade conveyance network.
- (75) "Stormwater management measure" means structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- (76) "Targeted performance standard" means a performance standard that will apply in a specific area that will require additional practices to meet water quality standards.
- (77) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method. The following methods shall be used in designing the water quality, peak flow reduction, and infiltration components of stormwater practices needed to meet the water quality standards of this ordinance:
  - (a) Technical standards identified, developed or disseminated by the WDNR under subchapter V of NR 151, Wisconsin Administrative Code.
  - (b) Where technical standards have not been identified or developed by the WDNR, other technical standards may be used provided that the methods have been approved by the City of Sheboygan Falls.

- (78) “Top of the channel” means an edge, or point on the landscape landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.
- (79) “TR-55” means the United States Department of Agriculture, Soil Conservation Service, “Urban Hydrology for Small Watersheds,” Technical Release 55, June 1992.
- (80) “Transportation facility” means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail and also includes any other public work for transportation purposes under Wis. Stat. § 85.095(1)(b). A transportation facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department of Commerce pursuant to Wis. Stat. § 101.1205.
- (81) “Type II distribution” means a particular dimensionless rainfall temporal pattern called a Type II 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.
- (82) “Waters of the State” has the meaning in Wis. Stat. § 283.01 (18).
- (83) “WDNR” means the Wisconsin Department of Natural Resources.
- (84) “WPDES permit” means a Wisconsin pollutant discharge elimination system permit issued under Wis. Stat. § 283.
- (85) “Wetland functional value” means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education.

## 26.06 Applicability and Jurisdiction

(1) Applicability -

This ordinance applies to all post construction land development, redevelopment, and infilling sites with one acre or more of land disturbing construction activities, except:

- (a) A post-construction site with less than 10 percent connected imperviousness of the total area based on complete development of the post-construction site, provided the cumulative area of all parking lots, roads, and rooftops is less than one acre.
- (b) Nonpoint discharges from agricultural facilities and practices.
- (c) Nonpoint discharges from silviculture activities.
- (d) Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

- (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.

Notwithstanding these applicability requirements, this ordinance applies to post-construction sites of any size that, in the opinion of the City of Sheboygan Falls, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

- (2) Jurisdiction -

This ordinance applies to post construction land development and redevelopment activities within the boundaries of the City of Sheboygan Falls and to all lands located within three miles of the corporate limits pursuant to the City's extraterritorial plat approval jurisdiction as set forth in Wis. Stat. § 236.45 (2).

- (3) County Ordinances -

This ordinance supersedes any county stormwater management ordinance for lands annexed to the City after the effective date of the county ordinance, except when the County's ordinance is more restrictive than this ordinance; then the more restrictive provisions set forth in the County ordinance shall become part of this ordinance and apply to the annexed lands. In such cases, the City may grant a variance from the more restrictive requirements provided that the criteria for a variance as set forth in the County ordinance is met.

- (4) Waivers -

Requests to waive the stormwater management plan requirements shall be submitted to the City of Sheboygan Falls for approval. Written waivers may be granted by the City if it is demonstrated to the satisfaction of the City that it is reasonable to expect that the objectives of this ordinance will be met by the proposed land development and redevelopment activity without a stormwater management plan.

- (5) Exclusions -

This ordinance is not applicable to activities conducted by a state agency, as defined under Wis. Stat. § 227.01 (1). This includes:

- (a) The office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stat. § 281.33 (2).
- (b) The Wisconsin Department of Transportation (WDOT) that entered into a memorandum of understanding with the WDNR that satisfies Wis. Stat. § 281.33(2) such that activities directed and supervised by WDOT are exempt from this ordinance.

## 26.07 Stormwater Management Standards

Unless otherwise provided for in this ordinance, all post-construction land development, redevelopment, and infilling activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of stormwater discharged from the site, the quality of the discharged stormwater, and the

volume of the discharged stormwater as described in this ordinance. Technical standards identified, developed or disseminated by the WDNR under subchapter V of chapter NR 151, Wisconsin Administrative Code shall be used. Where technical standards have not been identified or developed by the WDNR, other technical standards may be used provided that the methods have been approved in writing by the City of Sheboygan Falls. The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.

Exceptions to these standards are listed in Section 26.07(8) of this ordinance.

(1) Stormwater Discharge Rate -

Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of stormwater discharged from the site as described in this ordinance. Infiltration of stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.

- (a) The proposed land development shall not increase peak flow rates of stormwater runoff from that which would have resulted from the same storm occurring over the site with the land in its predevelopment condition as defined in Section 26.05(59) of this ordinance for storms of twenty four (24) hour duration and recurrence intervals of two (2), ten (10), and one hundred (100) years.
- (b) All stormwater conveyance systems within the proposed development shall be designed to completely contain the peak storm flows as described herein.
  1. For open channel conveyance systems the peak flow from the 25-year, 24-hour storm shall be completely contained within the channel bottom and banks.
  2. For storm sewer conveyance systems the peak flow from the 10-year, 24-hour storm shall be completely contained within the pipes with no surcharging.
  3. For storms greater than the 10-year, 24-hour event, and up to the 100-year, 24-hour event, ponding shall be within existing or proposed street right-of-way. In no case shall the depth of water exceed 12 inches at the outer edge of pavement or 6 inches at the road crown, whichever is less.
  4. The 100-year storm runoff flow path outside of the conveyance system must not impact structural improvements on property.
- (c) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of Sections 26.07(1)(a) and (b) of this ordinance shall be computed by procedures based on the principals and procedures described in TR-55. Calculations for determining peak flows for conveyance system sizing shall use RCN based on the existing or future proposed land use for off-site areas (whichever results in the highest peak flows), and the proposed land use for the on-site areas published by the NRCS. Other calculations methods must be approved by the City of Sheboygan Falls.
- (d) The rainfall distributions for the storm events shall be based on the SCS Type II storms as described in TR-55.

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- (e) Existing wetlands shall not be incorporated in the proposed stormwater management practice for peak flow control. Peak flow shall be managed prior to discharge to an existing wetland. Should any changes to natural wetlands be proposed, the impact of the proposal on wetland functional values shall be assessed. Significant changes to wetland functional values shall be avoided (as defined by NR 103, Wisconsin Administrative Code).
  - (f) Peak stormwater discharge reductions do not apply for a site meeting any one of these requirements:
    - 1. Redevelopment post-construction sites less than 5 acres in size.
    - 2. In-fill development areas less than 5 acres in size.
    - 3. Sites that directly discharge to the Sheboygan River, Onion River, or Mullet River without flowing over or through a municipally owned separate storm sewer or stormwater conveyance system.
- (2) Stormwater Discharge Quality -

Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the quality of stormwater discharged from the site. On-site management practices shall be used to meet the following minimum standard:

- (a) Total suspended solids BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows;
  - 1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80 percent, based on the average annual rainfall, as compared to no runoff management controls.
  - 2. For redevelopment less than five acres of disturbed land, by design, reduce to the maximum extent practicable, the total suspended solids load by 40 percent, based upon the average annual rainfall, as compared to no runoff management controls.
  - 3. For redevelopment five acres or greater of disturbed land, reduce, by design, 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.
  - 4. For infill development less than five acres of disturbed land, by design, 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.
  - 5. For infill development five acres or greater of disturbed land, by design, 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.
- (b) Effectiveness of the stormwater management measures shall be evaluated using the Source Loading and Management Model (SLAMM). Other methods or models may be used with prior written approval of the City.

- (c) Discharge of urban stormwater pollutants to natural wetlands without pre-treatment shall be avoided to the extent practicable. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method such as the WDNR's Rapid Wetland Functional Value Assessment, or other methods acceptable to the City of Sheboygan Falls. Changes to wetland functional values because of stormwater pollutant loads shall be avoided.

(3) Stormwater Discharge Volume (Infiltration) -

Unless otherwise provided for in this ordinance, all post-construction land development and redevelopment sites subject to this ordinance shall establish on-site management practices with the design capability to infiltrate runoff, to the maximum extent practicable.

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

1. Infiltrate sufficient runoff volume so that the post-construction infiltration volume shall be at least 90 percent of the pre-settlement infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.
2. Infiltrate 25 percent of the post-construction runoff from the 2-year, 24-hour design storm with a Type II distribution. Separate RCNs 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 one percent of the project site is required as an effective infiltration area.

- (b) For non-residential development, one of the following shall be met:

1. Infiltrate sufficient runoff volume so that the post-construction infiltration volume shall be at least 60 percent of the pre-settlement infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.
2. Infiltrate 10 percent of the post-construction runoff from the 2-year, 24-hour design storm with a Type II distribution. Separate RCNs 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 two percent of the project site is required as an effective infiltration area.

- (c) A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology shall be used. Other models may be used with prior written approval of the City.
- (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 in accordance with Section 26.09 of this ordinance.

Pretreatment may include, but is not limited to, oil/grease separation, sedimentation, biofiltration, filtration, treatment, swales or filter strips. It is desirable to infiltrate the cleanest

runoff to meet the infiltration standard. To achieve this, the design may propose greater infiltration of runoff from some sources such as roofs, and lesser from dirtier sources such as parking lots.

- (e) For the purpose of this section, turf grass swales are not counted towards the one percent or two percent limitations described in sub sections (a) and (b).
- (f) Exclusions. The runoff from the following areas is prohibited from meeting the requirements of this paragraph:
  - 1. Areas associated with tier 1 industrial facilities identified in NR 216.21(2)(a), Wisconsin Administrative Code, including storage, loading, rooftop and parking.
  - 2. Storage and loading areas of tier 2 industrial facilities identified in NR 216.21(2)(b), Wisconsin Administrative Code. Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.
  - 3. Fueling and vehicle maintenance areas.
  - 4. 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. This exclusion does not prohibit the infiltration of roof runoff.
  - 5. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
  - 6. Areas within 400 feet of a community water system well as specified in NR 811.16(4), Wisconsin Administrative Code, or within 100 feet of a private well as specified in NR 812.08(4), Wisconsin Administrative Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
  - 7. Areas where contaminants of concern, as defined in NR 720.03(2), Wisconsin Administrative Code, are present in the soil through which infiltration will occur.
  - 8. 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 does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This exclusion does not prohibit the infiltration of roof runoff.

- (g) Exemptions -

The following are not required to meet the requirements of this section of this ordinance:

- 1. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site by the double ring infiltrometer method at the depth of potential infiltration or another method acceptable to the City of Sheboygan Falls.

2. Parking areas and access roads 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.
  5. Infiltration areas during periods when the soil on the site is frozen.
  6. Roads in commercial, industrial, and institutional land uses, and arterial residential roads.
- (h) 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 NR 140, Wisconsin Administrative 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.
- (i) Where alternative uses of run off are employed such as toilet flushing, laundry, or irrigation, the volume used for the alternative use shall be given credit towards the volume required to infiltrate.
- (4) Protective Areas -

“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 widths described below, 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.

(a) Protective areas are:

1. For outstanding resource waters and exceptional resource waters and for wetlands in areas of special natural resource interest as specified in NR 103.04, Wisconsin Administrative Code, 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 and wetlands, 50 feet. Wetland boundary delineations shall be made in accordance with NR 103.08(1m), Wisconsin Administrative Code. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
4. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

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- (b) Within a planned development or redevelopment site, the watercourses may be moved or graded. The protective area dimensions move with the watercourse, and the protective area shall be contained within the property being developed. The watercourse shall be designed to be non-erosive and to have adequate capacity within the protective area using a 100-year, 24-hour storm. If watercourses are moved and leave the property at a different location, the watercourse downstream shall be protected from adverse impacts.
- (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, self-sustaining native, vegetative cover of 70 percent or greater shall be established and maintained. The self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
  3. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".
- (d) BMPs such as filter strips, treatment swales, or wet detention basins that are designed to control pollutants from non-point sources may be located in the protective area.
- (e) Other regulations, such as Wis. Stat. § 30, and NR 103, 115, 116, and 117, Wisconsin Administrative Code, and their associated review and approval process may apply in the protective area.
- (f) Protective areas do not apply to:
1. Redevelopment post-construction sites less than 5 acres in size.
  2. In-fill development areas less than 5 acres in size.
  3. Structures that cross or access surface waters such as boat landings, bridges and culverts.
  4. Structures allowed by NR 115, Wisconsin Administrative Code.
  5. Structures constructed in accordance with Wis. Stat. § 59.692(1v).
  6. Post-construction site from which runoff does not enter the surface water, 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 waters of the state contains no visible petroleum sheen. A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

## (a) This ordinance applies to:

1. New fueling and vehicle maintenance areas approved after the effective date of this ordinance.
2. Any modifications to existing fueling and vehicle maintenance areas that require site plan review. BMPs installed as part of a site modification shall, to the maximum extent possible, be designed and operated to treat all stormwater leaving the site so that the stormwater contains no visible petroleum sheen.

## (b) A stormwater management plan per Section 26.08 of this ordinance, a maintenance agreement per Section 26.09 of this ordinance, and a stormwater permit per Section 26.10 of this ordinance are required.

## (6) Location and Regional Treatment Option -

- (a) The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
- (b) Post-construction runoff within non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.
- (c) Post-construction runoff shall meet the post-construction performance standards prior to entering navigable surface water.
  1. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
  2. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state, and local regulations such as NR 103, Wisconsin Administrative Code, and Wis. Stat. § 30.
- (d) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this ordinance.

## (7) Swale Treatment for Transportation Facilities -

- (a) Except as provided in Section 26.07(8)(b) of this ordinance, transportation facilities that use swales for runoff conveyance and pollutant removal meet the stormwater discharge quality requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

1. 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. It is preferred that tall and dense vegetation be maintained within the swale because of its greater effectiveness at enhancing runoff pollutant removal.
  2. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable. Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks, or parking lanes do not comply with the design requirements of this paragraph.
- (b) The City of Sheboygan Falls may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily traffic of vehicles greater than 2,500 per day 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 § 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 NR 151.004, Wisconsin Administrative Code, to meet water quality standards.
- (8) Exceptions -

The minimum requirements for on-site stormwater management practices established in Sections 26.07(1) and (2) of this ordinance may be waived in whole or in part by the City of Sheboygan Falls upon written request of the applicant, provided that at least one of the following conditions applies:

- (a) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Sheboygan Falls and that is required to be implemented by local ordinance or City approved plan.
- (b) Provisions are made to manage stormwater by an off-site facility. This requires that the off-site facility is in place, is designed and adequately sized to the requirements of this ordinance, and has a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice. Permittee must demonstrate that the proposed land development or redevelopment activity has received permission to use the off-site facility. Permittee must also demonstrate the flow path to the off-site facility will not result in negative impacts to structural improvements on property. The permittee must provide for easements of all overland flow paths up to and including the overland flow path of the 100-year storm.

- (c) Innovative stormwater management systems that are used that do not meet Sections 26.07(1), (2), or (3) of this ordinance were reviewed.

(9) General Considerations for On-site Stormwater Management Measures -

The following considerations shall be observed in managing stormwater 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) 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.
- (c) Overland flow paths from adjoining properties to an offsite facility must be maintained.
- (d) Stormwater management measures used in developing the stormwater management plan should be considered according to the following order of preference. Limitations to this order of preference that may be recognized include natural site characteristics, type of development, legal rights in redirecting stormwater flows, and other restrictions specified in Sections 26.07(2) and 26.07(3) of this ordinance and the current version of The Wisconsin Stormwater Manual, Part Two: Technical Design Guidelines for Storm Water BMP's or the WDNR's website.
  - 1. On-site infiltration for rooftop, sidewalk, parking lot and driveway runoff;
  - 2. On-site and off-site infiltration style conveyance measures;
  - 3. Off-site wet detention measures;
  - 4. On-site wet detention measures;
  - 5. Extended detention measures; and,
  - 6. Off-site infiltration measures.
- (e) Low impact development techniques should be included to the extent possible. These techniques include: increasing the time of concentration by lengthening the flow path and increasing the roughness of the flow path, using native, deep rooted vegetation instead of turf grasses, and deep tilling onsite compacted soil.

## 26.08 Permitting Requirements, Procedures and Fees

(1) Permit Required -

No one may undertake a land development or redevelopment activity subject to this ordinance without receiving a permit from the City of Sheboygan Falls prior to commencing the proposed activity.

(2) Permit Application and Fee -

Unless specifically excluded by this ordinance, any land owner or operator desiring a permit shall submit to the City of Sheboygan Falls a permit application made on a form provided by the City of Sheboygan Falls for that purpose.

- (a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following information as set forth in Table 1.

| <b>Table 1</b>                   |                            |                                   |                                  |   |            |
|----------------------------------|----------------------------|-----------------------------------|----------------------------------|---|------------|
| <b>Land Development Activity</b> | <b>Permit <sup>a</sup></b> | <b>Stormwater Management Plan</b> | <b>Grading Plan <sup>b</sup></b> | <b>Maintenance Agreement <sup>c</sup></b> | <b>Fee</b> |
| Agricultural Use                 | --                         | --                                | --                               | --  | --         |
| Non-Residential                  | X                          | X                                 | X                                | X   | X          |
| 1 & 2 Family Residential         | X                          | --                                | X                                | --  | X          |
| Multi Family Residential         | X                          | X                                 | X                                | X   | X          |
| Subdivision Development          | X                          | X                                 | X                                | X   | X          |

<sup>a</sup> Combined grading and drainage plan to be reviewed by City staff.

<sup>b</sup> Unless previously provided by CSM, subdivision design, or other.

<sup>c</sup> If stormwater management plan requires maintainable structures.

- (b) The stormwater management plan shall be prepared to meet the requirements of Section 26.09 of this ordinance, the maintenance agreement shall be prepared to meet the requirements of Section 26.10 of this ordinance, and fees shall be those established by the City of Sheboygan Falls.

- (c) Fees for the above noted permits shall be in such amount as may be established by the City of Sheboygan Falls Common Council from time to time by separate resolution.

(3) Review and Approval of Permit Application -

The City of Sheboygan Falls shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

- (a) Within 30 business days of the receipt of a complete permit application, including all documents as required by Section 26.08(2)(a) of this ordinance, the City of Sheboygan Falls shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved. The City of Sheboygan Falls shall base the decision on requirements set forth in Sections 26.07, 26.09, and 26.10 of this ordinance.

- (b) If the stormwater permit application, plan and maintenance agreement are approved, and any fees, or if an agreed upon payment of fees in lieu of stormwater management practices are paid, the City of Sheboygan Falls shall issue the permit.

- (c) If the stormwater permit application, plan, or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement, or may appeal the decision of the City of Sheboygan Falls as provided for in Section 26.12 of this ordinance.
  - (d) If additional information is submitted, the City of Sheboygan Falls shall have 30 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 City of Sheboygan Falls to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed to mean approval of the submittal.
- (4) Stormwater Practice Installation and Maintenance Performance Security -

The City of Sheboygan Falls may, at its discretion, require the submittal of a cash escrow, letter of credit, or performance security prior to issuance of the permit to insure that the stormwater practices are installed and maintained by the permit holder as required by the stormwater management plan. The amount of the installation performance security shall be determined by the City of Sheboygan Falls, not to exceed the total estimated construction cost of the stormwater management practices approved under the permit unless otherwise specified in the permit.

The amount of the maintenance performance security shall be determined by the City of Sheboygan Falls, not to exceed the maintenance costs estimated in the stormwater plan for the period during which the permit holder has maintenance responsibility. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. Conditions for the release of performance security are as follows:

- (a) The installation performance security shall be released in full only upon submission of “as built plans” by a registered professional engineer in the State of Wisconsin. The City of Sheboygan Falls may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages including the final inspection of landscaping material.
  - (b) The maintenance performance security, minus any costs incurred by the City of Sheboygan Falls to conduct required maintenance, design, engineering, preparation, checking and review of designs, plans, and specifications; supervision and inspection to insure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity, via an approved maintenance agreement, or to the City of Sheboygan Falls.
- (5) Permit Conditions -

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 City of Sheboygan Falls may suspend or revoke a permit for violation of a permit condition, following written notification of the permittee. An action by the City of Sheboygan Falls to suspend or revoke this permit may be appealed in accordance with Section 26.12 of this ordinance.

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- (a) Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
  - (b) The permit holder shall design, install, and maintain all structural and nonstructural stormwater management measures in accordance with the approved stormwater management plan, stormwater management guide, maintenance agreement, and this permit.
  - (c) The permit holder shall notify the City of Sheboygan Falls at least 3 business days before commencing any work in conjunction with the stormwater management plan, and within 5 business days upon completion of the stormwater management practices. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the City of Sheboygan Falls so that practice installations can be inspected during construction.
  - (d) Completed stormwater management practices must pass a final inspection to determine if they are in accordance with the approved stormwater management plan, stormwater management guide and ordinance. The inspection must be made by the City of Sheboygan Falls, or other competent professionals identified by the City of Sheboygan Falls. The City of Sheboygan Falls shall notify the permit holder in writing of any changes required in such practices to bring them into compliance with the conditions of this permit. The permit holder is further required to submit a certificate of completion, stating the completion of the permitted work in accordance with the plans, City of Sheboygan Falls, state and federal requirements. The certificate must be signed by the permit holder, the contractor, the design engineer, and authorized City representative.
  - (e) The permit holder shall notify the City of any significant modifications it intends to make to an approved stormwater management plan. The City of Sheboygan Falls may require that the proposed modifications be submitted for approval prior to incorporation into the stormwater management plan and execution.
  - (f) The permit holder shall maintain all stormwater management practices specified in the approved stormwater management plan until the practices either become the responsibility of the City of Sheboygan Falls, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
  - (g) The permit holder authorizes the City of Sheboygan Falls to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to placing associated costs upon the tax roll as a special lien against the property which may be collected as special charges pursuant to S. 66.60(16), Wisconsin State Statutes by the City of Sheboygan Falls or to charging such costs against the letter or credit, or cash posted for the project.
  - (h) If so directed by the City of Sheboygan Falls, the permit holder shall repair at the permit holders own expense all damage to adjoining municipal facilities and drainage ways caused by stormwater runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.

- (i) The permit holder shall permit property access to the City of Sheboygan Falls for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- (j) Where necessary, it shall be the responsibility of the permit holder to obtain from adjacent property owners any easements or other required property interests concerning flowage of water. Issuance of this permit does not create or affect any such rights.
- (k) The permit holder is subject to the enforceable actions detailed in Section 26.11 of this ordinance if the permit holder fails to comply with the terms of this permit.

(6) Permit Duration -

Permits issued under this section shall be valid from the date of issuance through the date the City of Sheboygan Falls notifies the permit holder that all stormwater management practices (including landscaping materials) have passed the final inspection required under Section 26.08(5)(d) of this ordinance.

(7) Fee in Lieu of On-site Stormwater Management Practices -

Where the City of Sheboygan Falls waives all or part of the minimum on-site stormwater management requirements of this ordinance, or where the waiver is based on the provision of adequate stormwater facilities provided by the City of Sheboygan Falls downstream of the proposed development or redevelopment, as provided for under Section 26.07(8) of this ordinance, the applicant shall be required to pay a fee in an amount as determined by the City of Sheboygan Falls pursuant to Wis. Stat. § 66.076 and any other applicable law.

## 26.09 Stormwater Management Plans

(1) Plan Requirements -

The stormwater management and grading plan required under Section 26.08 of this ordinance shall contain any such information the City of Sheboygan Falls may need to evaluate the environmental characteristics of the area affected by land development activity, the potential impacts of the proposed development upon the quality and quantity of stormwater discharges, the potential impacts upon water resources and drainage systems, and the effectiveness and acceptability of proposed stormwater management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, stormwater management and grading plans shall contain at a minimum the information described within the stormwater management permit application provided by the City of Sheboygan Falls.

(2) Certification -

All site investigations, plans, designs, computations, and drawings for stormwater management measures shall be certified by a registered professional engineer in the State of Wisconsin and be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by the City of Sheboygan Falls.

## (3) Minimum Content -

The stormwater management plan shall contain at a minimum the following information:

- (a) Name, address, and telephone number for the following and their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of stormwater management practices; and person(s) responsible for maintenance of stormwater 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 in Sheboygan County Coordinate System and referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- (c) Pre-development site conditions, including:
  1. One or more site maps of current site conditions at a scale of not less than 1-inch equal 100-feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100-year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to NR 811.16, 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(s).
- (d) Post-construction site conditions, including:
  1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
  2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
  3. One or more site maps at a scale of not less than 1 inch equals 100 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements

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specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
  5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures.
  6. 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 Section 26.07 of this ordinance.
- (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
- (g) Other information requested in writing by the City of Sheboygan Falls to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

(4) Alternative Requirements -

The City of Sheboygan Falls may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Section 26.07 of this ordinance.

(5) Modifications -

When a change in land or stormwater management practices occurs at a site with an approved stormwater management plan, a modified stormwater management plan must be submitted to the City before those changes in practices occur.

(7) Exceptions -

The City of Sheboygan Falls may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Section 26.07 of this ordinance.

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**26.10 Maintenance Agreement**

## (1) Maintenance Agreement Required -

The maintenance agreement required for stormwater management practices under Section 26.09 of this ordinance shall be an agreement between the City of Sheboygan Falls and the permittee. The agreement shall be recorded as a property deed restriction by the permit applicant with the Sheboygan County Register of Deeds so that it is binding upon all subsequent owners of land served by the stormwater management practices.

## (2) Agreement Provisions -

The maintenance agreement shall contain the following provisions:

- (a) The responsible party(s) shall maintain stormwater management practices in accordance with the stormwater practice maintenance provisions contained in the approved stormwater management plan submitted under Section 26.08(2) of this ordinance.
- (b) Identification of the storm water facilities and designation of the drainage area served by the facilities.
- (c) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan.
- (d) Identification of the responsible party(s), organization or city, county, town or village responsible for long-term maintenance of the stormwater management practices identified in the stormwater management plan.
- (e) Requirement that the responsible party(s) or organization shall maintain stormwater management practices in accordance with the schedule included in Section 26.09 of this ordinance.
- (f) The City of Sheboygan Falls is authorized to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan.
- (g) The City of Sheboygan Falls shall maintain public records of the results of the site inspections, shall inform the responsible party(s) for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition and a reasonable time frame during which the corrective action must be taken.
- (h) The City of Sheboygan Falls is authorized to perform the corrected actions identified in the inspection report if the responsible party(s) does not make the required corrections in the specified time period. The City of Sheboygan Falls shall charge the landowner(s), agent(s), or assign(s) for the cost of such work and shall place a lien on the property which may be collected as special charges pursuant to Wis. Stat. § 66.60(16) by the City of Sheboygan Falls.

(3) Modification of Agreement -

This maintenance agreement may be modified by mutual agreement of the responsible party and the City of Sheboygan Falls. The modification date shall be the date the responsible party records the modified maintenance agreement with the Sheboygan County Register of Deeds, as a property deed restriction so that the modified agreement is binding upon all subsequent owners of the land served by the stormwater management practices.

The maintenance agreement shall be modified when there are changes in land use or stormwater management practices at the site. The modified plan shall be submitted and approved by the City before changes in practices occur.

(4) Termination of Agreement -

The maintenance agreement shall be terminated at such time that responsibility for maintenance of the stormwater management practice is legally transferred to the City of Sheboygan Falls or an agency acceptable to the City of Sheboygan Falls, through a written, binding agreement. The termination date of the maintenance agreement required under Section 26.10(l) of this ordinance shall be the date upon which the legal transfer of maintenance responsibility to the City of Sheboygan Falls or an agency acceptable to the City is made effective.

### 26.11 Enforcement and Penalties

- (1) Any land development or redevelopment activity 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 said provisions.
- (2) The City of Sheboygan Falls shall notify the responsible owner or operator in writing of any non-complying land development or redevelopment activity. 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.
- (3) Upon receipt of written notification from the City of Sheboygan Falls, the permit holder shall correct work which does not comply with the stormwater management plan or other provisions of this permit within 30 days. The permit holder shall make corrections as necessary to meet the specifications and schedule set forth by the City of Sheboygan Falls in the notice.
- (4) The City of Sheboygan Falls is authorized to post a stop work order on all land development or redevelopment activity in violation of this ordinance, or to request the City of Sheboygan Falls attorney or corporation counsel to obtain a cease and desist order.
- (5) The City of Sheboygan Falls may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (6) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the City of Sheboygan Falls or by a court of competent jurisdiction.

- (7) The City of Sheboygan Falls 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 City of Sheboygan Falls attorney for the commencement of further legal proceedings.
- (8) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the City of Sheboygan Falls Municipal Code Section 25.04. Each day that the violation exists shall constitute a separate offense.
- (9) Every violation of this ordinance is a public nuisance. Compliance with this ordinance may be enforced by injunctive order at the suit of the City of Sheboygan Falls pursuant to Wis. Stat. § 62.23(8). It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.
- (10) When the City of Sheboygan Falls determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the stormwater management plan submitted and approved pursuant to Section 26.09 of this ordinance, or has failed to comply with schedules set forth in said stormwater management plan, the City of Sheboygan Falls or a party designated by the City of Sheboygan Falls 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 City of Sheboygan Falls shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to Section 26.09 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

## 26.12 Appeals

- (1) Board of Appeals -

The Board of Appeals, created under Section 1.31 of the Municipal Codes of the City of Sheboygan Falls, pursuant to Wis. Stat. § 62.23(7)(e), shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City of Sheboygan Falls in administering this ordinance. The Board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals.

Upon appeal, the Board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship.

- (2) Who May Appeal -

Appeals to the board of appeals or adjustments may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Sheboygan Falls affected by any decision of the City of Sheboygan Falls.

**26.13 Severability**

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect. Any other ordinance whose terms conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**26.14 Effective Date**

This ordinance is in full force and effect from and after passage and publication.