

Fond du Lac County Code Chapter 17

**Erosion Control
And
Stormwater Management**

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17.01 AUTHORITY.

- (1) This chapter is adopted by the County Board under the authority granted by §59.693, Wis. Stats. This chapter supersedes all conflicting and contradictory regulations previously enacted by Fond du Lac County relating to stormwater management and construction site erosion control.
- (2) Under the authority of §92.07(15), Wis. Stats., the County Board hereby designates the Land Conservation Committee, through the Land Conservation Department, to administer and enforce the provisions of this chapter. Enforcement provisions are described further under sec. 17.13 of this chapter.

17.02 FINDINGS OF FACT.

- (1) The County Board finds that construction site erosion and uncontrolled stormwater runoff from land disturbing and land development activities have significant adverse impacts upon local water resources and the health, safety and general welfare of the community, and diminish the public enjoyment and use of natural resources. Specifically, soil erosion and stormwater runoff can:
 - (a) Carry a significant amount of sediment, nutrients, bacteria/other pathogens, organic matter, toxins and other pollutants to local lakes, streams and wetlands;
 - (b) Diminish the capacity of water resources to support recreational and water supply uses, and a natural diversity of plant and animal life;
 - (c) Clog drainage systems with sediment, which in turn increases maintenance costs;
 - (d) Overwhelm existing drainage ways with increased flows, causing bank and channel erosion, and increasing downstream flooding and property damage;
 - (e) Reduce groundwater recharge, which may diminish stream base flows and/or lower water levels in local lakes, ponds and wetlands;
 - (f) Contaminate drinking water supplies; and
 - (g) Generate airborne particulate concentrations that are health threatening or may cause other off-site damage to property or the environment.

17.03 PURPOSE AND INTENT.

(1) **Purpose.**

The purpose of this chapter is to set forth requirements for land development and land disturbing activities aimed to minimize sedimentation, water pollution, flooding and related property and environmental damage caused by soil erosion and uncontrolled stormwater runoff during and after construction, in order to diminish the threats to public health, safety, welfare, and the natural resources of Fond du Lac County.

(2) **Intent.**

This chapter is intended to regulate construction site erosion and stormwater management under the authority granted in §59.693, Wis. Stats. This chapter is not intended to limit activity or land divisions permitted under the applicable zoning and land division ordinances..

(3) **Regional Stormwater Management.**

The County recognizes that the preferred method of permanently managing stormwater runoff from land development activities is through the preparation and implementation of regional stormwater management plans by watershed areas which are designed to meet the requirements of this chapter. Accordingly, provisions have been incorporated into this chapter to allow for the implementation of this type of plan in lieu of complying with on-site stormwater management requirements.

17.04 JURISDICTION.

(1) The provisions of this chapter shall apply to all unincorporated lands within the jurisdictional boundaries of Fond du Lac County where a town board has not adopted a similar ordinance or entered into an intergovernmental agreement with Fond du Lac County under §66.0301, Wis. Stats., for ordinance administration services.

(2) Under the authority of §59.693(10), Wis. Stats., this chapter shall continue in effect in any area annexed by a city or village, unless the city or village enacts, maintains and enforces a city or village ordinance which complies with minimum standards established by the Wisconsin Department of Natural Resources and which is at least as restrictive as this chapter.

17.05 APPLICABILITY, EXEMPTIONS AND WAIVERS.

(1) Construction Site Erosion Control.

Unless otherwise exempted under sub.(3) below, or waived under sub.(4) below, an erosion and runoff control permit under sec. 17.06 of this chapter shall be required, and all construction site erosion control provisions of this chapter shall apply to all land disturbing activity that meet any of the following:

- (a) Disturbs 4,000 square feet or more of total land surface area;
- (b) Involves excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material; or
- (c) Disturbs 100 lineal feet of road ditch, grass waterway or other land area where surface drainage flows in a defined open channel; including the placement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel at flow capacity;
- (d) Other land disturbing activities, including the installation of access drives, that the administering authority determines to have a high risk of soil erosion or water pollution, or that may impact an environmentally sensitive area. All determinations made by the administering authority under this subsection shall be made in written or electronic form, unless otherwise waived by the requesting entity.

(2) Stormwater Management.

Unless otherwise exempted under sub.(3) below, or waived under sub.(4) below, an erosion and runoff control permit under sec. 17.06 below, shall be required, and all stormwater management provisions of this chapter shall apply to all land development activity that meet any of the following:

- (a) Divides an existing tax parcel into 5 separate parcels of 5 acres each or less in total area within a common plan of development;
- (b) Involves the construction of any new public or private roads;
- (c) Ultimately results in the addition of impervious surfaces of 20,000 square feet or greater in total area, including smaller individual sites that are part of a common plan of development; or
- (d) Other land development activities, including access drives, that the administering authority determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or property damage, or significantly impact an environmentally sensitive area. All determinations made by the administering authority under

this subsection shall be made in written or electronic form, unless otherwise waived by the requesting entity.

(3) **Exemptions.**

(a) The following sites shall be exempt from all of the requirements of this chapter:

1. All activities directly relating to the planting, growing and harvesting of agricultural crops.
2. Replacement or repair of private septic systems.
3. Activities associated with non-metallic mining. (Non-metallic mining is addressed through the county's Non-Metallic Mining Ordinance)
4. Any land disturbing or land development activity conducted by or contracted for any State agency, as defined under §227.01(1), Wis. Stats., including but not limited to road construction projects administered by the Wisconsin Department of Transportation. These activities must meet the erosion control and stormwater management requirements of the state.

(b) The following sites shall be exempt from sub.(1) above, which includes the construction site erosion control provisions of this chapter only:

1. The construction of one and two family residential buildings under Wis. Admin. Code COM 21.125, unless requested by the town building inspector or town board. These activities must meet the erosion control requirements of the Wisconsin Uniform Dwelling Code.
2. Any land disturbing activity within the shoreland/wetland/floodplain zone as defined by the Fond du Lac County Code that disturbs less than one acre of total land surface, unless otherwise requested by the Fond du Lac County Code Enforcement Department. These activities must meet the erosion control requirements of the County shoreland/floodplain/wetland zoning ordinance(s).

(c) The following sites shall comply with all of the erosion control and stormwater management requirements of this chapter, but shall be exempted from obtaining a permit, providing a financial guarantee or paying a fee under sec. 17.06 of this chapter:

1. Any proposal that is designed and/or certified by the Fond du Lac County Land Conservation Department as part of a soil conservation or water pollution control project; and
2. Any road construction or other land disturbing or land development activity by the County, or any town, city or village within the County. *[Note: The Land Conservation Department will encourage cooperative working agreements with other County departments and local units of government to implement this provision.]*

(4) **Waivers.**

- (a) The administering authority shall waive any requirement of this chapter if the administering authority, or the Board of Adjustment under sec. 17.14 of this chapter, determines that:
 1. The site will have no appreciable off-site impact;.
 2. Compliance is impractical or impossible due to site conditions, urban street cross section requirements, or other circumstances beyond the control of the applicant;
 3. Compliance would be in direct conflict with other regulations or related objectives of this chapter which would take precedent; or
 4. The specific requirement is not necessary for a particular site to ensure compliance with the erosion control and stormwater management requirements of secs. 17.08 and 17.09 of this chapter.
- (b) Any waiver granted shall be in written or electronic form and shall comply with the general requirements under sec. 17.08(1)(a) of this chapter relating to construction site erosion control and under sec. 17.09(1)(a) of this chapter relating to stormwater management.

17.06 APPLICATION FOR EROSION AND RUNOFF CONTROL PERMIT OR PRELIMINARY APPROVAL LETTER.

(1) **Application.**

The applicant shall submit a completed application on a form provided by the administering authority for that purpose, and indicate whether applying for a preliminary approval letter or an erosion and runoff control permit. By submitting an application, the applicant is authorizing the administering authority to enter upon the site to obtain information needed to administer this chapter.

(2) **Erosion and Runoff Control Permit.**

An erosion and runoff control permit is required for all sites that meet the applicability provisions of secs. 17.05(1) or 17.05(2) of this chapter and are not exempt under sec. 17.05(3) of this chapter or waived under sec. 17.05(4) of this chapter. To request an erosion and runoff control permit under this chapter, the following information shall be submitted to the administering authority:

- (a) A completed application on a form provided by the administering authority for that purpose;
- (b) The applicable fee(s);
- (c) A final erosion control plan in accordance with sec. 17.08 of this chapter for those land disturbing activities that meet any of the applicability criteria in sec. 17.05(1) of this chapter;
- (d) A final stormwater management plan in accordance with sec. 17.09(5) of this chapter and a draft maintenance agreement in accordance with sec. 17.12 of this chapter for those land development activities that meet any of the applicability criteria of sec. 17.05(2) of this chapter; and
- (e) A financial guarantee, in accordance with sec. 17.11(3) of this chapter.

(3) **Preliminary Approval Letter.**

(a) Purpose and Intent.

A preliminary approval letter is an optional step in the permit process that is strongly encouraged for subdivisions and other large or complex land development activities. It is designed to assist the applicant in preparing general site plans and obtaining other applicable permits or zoning approvals prior to finalizing detailed construction plans for a proposed project. It will also act to notify other review authorities that the applicant has agreed to meet the requirements of an erosion and runoff control permit and provides a preliminary plan of what will likely be required. An erosion and runoff control permit is still required prior to the start of any proposed land disturbing or land development activity. The administering authority shall issue an erosion and runoff control permit after determining that the final erosion control and stormwater management plans are in substantial compliance with the preliminary plans and after the applicant has met all other requirements of sub.(2) above.

(b) Application.

To request a preliminary approval letter, the following information must be submitted to the administering authority:

1. A completed application, on a form provided by the administering authority for that purpose;
2. The applicable fee(s);
3. A preliminary erosion control plan in accordance with sec. 17.08(4) of this chapter; for those sites that meet any of the applicability criteria under sec. 17.05(1) of this chapter; and
4. A preliminary stormwater management plan in accordance with sec. 17.09(4) of this chapter, for those land development activities that meet any of the applicability criteria of sec. 17.05(2) of this chapter.

(4) **Fees.**

All application and review fees for this chapter shall be established by the Land Conservation Committee, subject to County Board approval. Fee amounts shall be designed to offset the costs to the County for the administration of this chapter and may be modified from time to time based on the records and recommendation of the administering authority. A schedule of the fees shall be available for review and distribution through the office of the Land Conservation Department. No fee shall exceed the actual and direct costs of administering this chapter. Those persons as defined in §32.01(1), Wis. Stats., shall be exempt from the fees in this chapter.

17.07 PLAN REVIEW PROCEDURES.

(1) For Applications That Only Involve Erosion Control Plans for Less Than One Acre of Disturbed Area.

- (a) The procedures under this subsection shall only apply to applications which meet all of the following criteria:
1. Meet one of the applicability criteria under sec. 17.05(1) of this chapter relating to construction site erosion control;
 2. Disturb less than one acre in total land surface area; and
 3. Do not meet any of the applicability criteria under sec. 17.05(2) of this chapter relating to stormwater management.

- (b) Within 10 working days of receipt of a completed application form, fee and final erosion control plan, the administering authority shall:
 - 1. Determine if the requirements of this chapter have been met, including sec. 17.08(5)(a) of this chapter relating to the requirements of a final erosion control plan;.
 - 2. Determine if more information or additional review is needed; and
 - 3. Notify the applicant of the results of pars. (b)1. and (b)2 above. Notification shall be in written or electronic form, unless otherwise waived by the applicant.
 - (c) The administering authority may request comments from other agencies or units of government within the 10-day review period. Unless determined by some other procedures, the other agency or unit of government shall have 10 working days to respond to such a request. The administering authority shall notify the applicant if additional comments are being requested and shall have 10 working days from the receipt of those comments to notify the applicant of the results of the review.
 - (d) If all of the applicable requirements of this chapter have been met, the administering authority shall issue an erosion and runoff control permit. If the requirements of this chapter have not been met, the administering authority shall notify the applicant what changes would be necessary to meet the requirements.
 - (e) For any resubmitted of plans and supporting information by the applicant, the administering authority shall have 10 working days from the date of receipt to review the resubmitted information in accordance with pars.(b) through (d) above.
 - (f) If the administering authority fails to act within the timelines stated in this subsection, the submitted documents shall be deemed approved, and the administering authority shall issue an erosion and runoff control permit.
- (1) **For All Other Applications for an Erosion and Runoff Control Permit or Preliminary Approval Letter.**
- (a) The procedures under this subsection shall apply to all other applications that meet at least one of the applicability criteria under sec. 17.05 of this chapter, but do not meet all of the criteria under sub.(1) above, for erosion control plans for less than one acre.
 - (b) Within 30 days of receipt of a completed application form, fee and applicable erosion control and/or stormwater management plan(s) in

accordance with sec. 17.06 of this chapter, the administering authority shall:

1. Determine if the requirements of this chapter have been met, including sec. 17.08(5)(b) of this chapter and/or sec. 17.09(5) of this chapter relating to the required contents of final erosion control and stormwater management plans; and
 2. Determine if more information or additional review is needed; and
 3. Notify the applicant of the results of pars. (b)1. and (b)2 above. Notification shall be in written or electronic form, unless otherwise waived by the applicant.
- (b) The administering authority may request comments from other agencies or units of government within this 30 day review period. Unless determined by some other procedures, the other agency or unit of government shall have 30 days to respond to such a request. The administering authority shall notify the applicant if additional comments are being requested and shall have 10 working days from the receipt of those comments to notify the applicant of the results of the review.
- (c) If all of the applicable requirements of this chapter have been met, the administering authority shall provide a preliminary plan approval letter or an erosion and runoff control permit. If the requirements of this chapter have not been met, the administering authority shall notify the applicant what changes would be necessary to meet the requirements.
- (d) For any resubmitted of plans and supporting information by the applicant, the administrating authority shall have 20 working days from the date of receipt to review the resubmitted information in accordance with pars. (b) through (d) above.
- (e) If the administering authority fails to act within the timelines stated in this subsection, the submitted documents shall be deemed approved, and the administering authority shall issue a preliminary approval letter or erosion and runoff control permit.

17.08 EROSION CONTROL PLAN REQUIREMENTS.

(1) General Requirements.

- (a) An erosion control plan shall ensure, to the extent practical, that soil erosion, siltation, sedimentation and other off-site impacts from land disturbing activities are minimized.

- (b) All erosion control plans and best management practice designs prepared under this chapter shall comply with the plan requirements of this section and the technical standards and specifications described in sec. 17.10 of this chapter.

(2) **Guiding Principles.**

To satisfy the requirements of this section, all proposed land disturbing activities shall, to the extent practical:

- (a) Be planned and implemented in a manner that best fits the terrain of the site, avoiding steep slopes and other environmentally sensitive areas;
- (b) Minimize the loss of trees and other natural vegetation and the size of the disturbed area;
- (c) Minimize, through project phasing and proper construction sequencing, the time the disturbed soil surface is exposed [*Note: See sec. 17.11(2)(c) of this chapter for special conditions relating to construction scheduling and the issuance of a permit.*];
- (d) Emphasize the use of erosion control measures that prevent soil detachment and erosion rather than trying to intercept its transport or repair damage done.

(3) **Specific Erosion Control Requirements.**

Unless otherwise waived under sec. 17.05(4) of this chapter, the following minimum requirements shall be met on all sites subject to the applicability criteria under sec. 17.05(1) of this chapter and shall be addressed in the erosion control plan submitted by the applicant, if applicable. The administering authority is authorized to exceed the minimum requirements stated below for any site that the administering authority determines is a high risk of soil erosion or may significantly impact an environmentally sensitive area, and that further controls are practical.

(a) Access Drives and Tracking.

Each site shall provide an access drive(s) and parking area, of sufficient dimensions and design, surfaced with a material that will prevent erosion and minimize tracking or washing of soil onto public or private roadways. All non-paved access drives shall be designed so that stormwater runoff from adjacent areas does not flow down the drive surface. Culverts shall be sized for calculated peak flows produced by the 10-year 24-hour design storm and shall meet all other State and local requirements relating to road access.

- (b) Diversion of Upslope Runoff.
Any significant amount of runoff from upslope land area, rooftops or other surfaces that drains across the proposed land disturbance shall be diverted around the disturbed area, if practical. Any diversion of upslope runoff shall be done in a manner that prevents erosion of the flow path and the outlet.

- (c) Cut and Fill Slopes.
Any cuts and fills shall be planned and constructed to minimize the length and steepness of slope, and stabilized in accordance with the approved erosion control plan timelines and technical standards of this chapter.

- (d) Open Channels.
Any open channels shall be designed and constructed to carry the calculated peak flows for a 10-year 24-hour design storm, and stabilized in accordance with the approved erosion control plan timelines and technical standards of this chapter.

- (e) Inlet Protection.
All inlets to storm drains, culverts and other stormwater conveyance systems shall be protected from siltation until final site stabilization.

- (f) Outlet Protection.
All outlets for site dewatering and stormwater conveyance systems, including pipe or open channels entering a stormwater management facility, shall be protected from erosion through channel lining or other stabilization measures.

- (g) Site Erosion Control.
Measures shall be taken, using approved best management practices, to minimize sediment from being carried off-site by water or wind during the construction phase, such as: diversions, silt fence, straw bales, downspout extenders, soil treatment, temporary mulch, sediment traps, sediment basins, etc. All temporary best management practices shall be maintained until the site is stabilized. Some best management practices, such as sediment basins, may be designed to also serve as a permanent stormwater best management practice after the site is stabilized.

- (h) Site Dewatering.
Water pumped from the site shall be treated by sediment basins or other approved measures to prevent soil erosion and water pollution.

- (i) Waste and Material Disposal.
All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of and not allowed to be carried off-site by runoff or wind.

- (j) Topsoil.
Enough topsoil from the disturbed area must be saved to ensure that a minimum of 4 inches is reapplied for all areas to be seeded or sodded. If adequate topsoil does not exist on the site to meet this requirement, it shall be imported. If the disturbed area is to be used for the growing of agricultural crops in the future, the original depth of topsoil shall be restored.

- (k) Subsoil.
For disturbed areas that are to be used for the growing of agricultural crops, trees or other woody vegetation in the future, a minimum of 1 foot of original subsoil shall remain or be reapplied prior to the application of topsoil to provide an adequate root zone.

- (l) Soil Stockpiles.
Soil stockpiles shall be located no closer than 75 feet from lakes, streams, wetlands, ditches, drainage ways, curbs/gutters or other stormwater conveyance system, unless otherwise approved by the administering authority. Measures shall be taken to minimize erosion and runoff from any soil stockpiles that will likely remain for more than 5 working days. Any soil stockpile that remains for more than 30 days shall be covered or treated with stabilization practices such as temporary or permanent seeding and mulching.

- (m) Sediment Cleanup.
All off-site sediment deposits occurring as a result of construction work or a storm event shall be cleaned up by the end of each day. Flushing shall not be allowed.

(n) Final Site Stabilization.

All disturbed areas shall be treated with stabilization measures such as seeding, mulching, soil treatment, erosion netting, matting, sodding, etc. within 3 working days of final grading. Large sites shall be treated in stages as final grading is completed in each stage. Any soil erosion that occurs after final grading and/or the application of stabilization measures must be repaired and the stabilization work redone.

(o) Temporary Site Stabilization.

For any disturbed area that remains inactive for greater than 7 working days, or where grading work extends beyond the permanent seeding deadlines established by the Land Conservation Committee, the administering authority may require the site to be treated with temporary stabilization measures such as soil treatment, temporary seeding and/or mulching in addition to other erosion control measures as part of an approved erosion control plan.

(p) Removal of Practices.

When the disturbed area has been stabilized by permanent vegetation or other means, temporary best management practices such as silt fences, straw bales and sediment traps shall be removed and these areas stabilized.

(4) **Preliminary Erosion Control Plan.**

Preliminary erosion control plans shall contain the same information listed under sub. (5)(b) below, with the exception of sub. (5)(b) 2.b., f., g. below, the supporting documentation in sub. (5)(b)2.d. below, and the starting of completion dates in sub. (5)(b)2.e. below.

(5) **Final Erosion Control Plan Contents.**

(a) Sites of Less than One Acre of Total Land Disturbance.

The following shall be the minimum requirements for items to be included in a final erosion control plan:

1. A scaled drawing of the site with a north arrow, delineation of the proposed land disturbance, existing and proposed buildings, roads, access drives, property boundaries, drainage ways, water bodies, trees, culverts, and other structures within 50 feet of the proposed land disturbance;
2. The direction and steepness of slopes before and after the proposed land disturbance;

3. A description and location of all temporary best management practices proposed to be used to minimize off-site impacts during the construction phase;
4. A description and location of all permanent best management practices proposed to be used to stabilize the site; and
5. The name, address and day time phone number of the person(s) charged with installing and maintaining all best management practices and thus subject to the enforcement provisions of sec. 17.13 of this chapter.
6. Other information determined to be necessary by the administering authority to ensure compliance with the requirements of this chapter.

(b) Sites of One Acre or Greater in Total Land Disturbance.

The following shall be the minimum requirements for items to be included in an erosion control plan.:

1. A vicinity map.
2. Existing Site Map and Data.
A map and supporting data of existing site conditions at a scale of one inch equals no more than 100 feet showing the following items on the site and within 50 feet in each direction of the site boundaries:
 - a. Ownership boundaries and other references that will accurately identify site location;
 - b. Name, address and daytime telephone number of the applicant;
 - c. Site topography at a contour interval not to exceed 2 feet;
 - d. Location and name, if applicable, of all lakes streams and other water bodies as defined on a 7.5 minute topographic map published by the U.S. Geological Survey;
 - e. Location and name, if applicable, of all other channels, ditches, and other water courses or areas of channelized flow;
 - f. Location and name, if applicable, of all wetlands, as defined on the official wetland zoning maps at the Fond du Lac County Planning and Parks Department and as defined by the USDA-

Natural Resources Conservation Service (NRCS) under federal jurisdiction and definition;

- g. Boundaries of shoreland zones, 100 year floodplains, flood fringes and floodways, as defined on the official shoreland and floodplain zoning maps at the Fond du Lac County Planning and Parks Department;
 - h. Boundaries and soil symbol for each soil mapping unit, as published in the Soil Survey of Fond du Lac County; [*Note: This item may be on a separate map at smaller scale showing key locations of proposed land disturbing or land development activity*];
 - i. General location and description of trees and other vegetative cover types;
 - j. Location, dimensions and contributing watershed area delineations and flow calculations for all existing stormwater drainage systems and natural flow paths or channels entering and/or leaving the site;
 - k. Locations and dimensions of any buildings, roads, parking areas, fence lines, access lanes, rock outcrops, tile drains, utilities and other physical features or structures;
 - l. Location and support documentation for any well currently located on the site and/or delineation of any regulatory setback distances of other wells, as stated in Wis. Admin. Code NR Chs. 811 and 812;
 - m. Locations and dimensions of any easements, right-of-ways, building setbacks or other restrictions;
 - n. Any other existing site information that the administering authority determines to be necessary to ensure compliance with the requirements of this chapter.
3. Site Development Plan.
- A site development plan, using the same map scale as the existing site map, shall include the following map items and supporting documentation:
- a. Locations and dimensions of all proposed land development and land disturbing activities, including proposed cuts, fills and 2 foot contours of final grade;

- b. Locations and dimensions of all temporary soil stockpiles, the estimated length of time they will exist and any applicable erosion control method;
- c. Locations, dimensions and applicable design documentation for all temporary and permanent best management practices necessary to meet the requirements of this chapter;
- d. Location, dimensions, supporting flow calculations and stabilization plans for the proposed construction or modification of any open channels;
- e. A construction schedule, including the sequence and anticipated starting and completion date for each construction step and the installation of best management practices needed to meet the requirements of this ordinance;
- f. Description of maintenance responsibilities for all temporary best management practices;
- g. The name(s) and daytime phone number(s) of the person(s) charged with the responsibility of installing and maintaining all best management practices until the completion of a satisfactory final inspection by the administering authority under sec. 17.11(5) of this chapter. *[Note: All persons so designated shall be subject to the enforcement provisions of sec. 17.13 of this chapter, should they fail to insure compliance with this chapter.]*
- h. Description of site re-vegetation and stabilization plans, including topsoil and subsoil reapplication, seeding mixtures, fertilizer, rates of application, time schedule and maintenance responsibilities until the grass and/or other plants are well established; and
- i. Detailed drawings, including profiles, cross-sections, and other information determined to be necessary by the administering authority to ensure compliance with the requirements of this chapter.
- j. Certification, from a professional engineer registered in the State of Wisconsin, that all computations and designs included in the final erosion control plan have been reviewed and approved as being in accordance with the requirements of this chapter. The name, address and daytime phone and FAX number of the engineer must also be included for contact during the plan review process.

17.09 STORMWATER MANAGEMENT PLAN REQUIREMENTS.

(1) General Requirements.

- (a) A stormwater management plan, prepared in accordance with this chapter shall maintain, as nearly as practical, the site's natural drainage patterns and assumed pre-development peak flows. In addition, measures shall be taken to prevent or minimize the pollution of surface waters and groundwater resources, damage to downstream property and local flooding as a result of permanent stormwater discharges from the proposed land development.
- (b) All stormwater management plans and best management practice designs prepared under this chapter shall comply with the plan requirements of this section and technical standards and specifications described in sec. 17.10 of this chapter.

(2) Guiding Principles.

To satisfy the requirements of this section, unless otherwise waived under sec. 17.05(4) of this chapter, all proposed land development activities shall, to the extent practical:

- (a) Be planned and implemented in a manner that best fits the terrain of the site, avoiding steep slopes and other environmentally sensitive areas;
- (b) Preserve natural watershed boundaries and drainage patterns;
- (c) Maintain groundwater recharge areas and the infiltration capacity of native soils by avoiding the unnecessary filling of large natural depressions or compaction of upper soil horizons by construction equipment;
- (d) Utilize natural or constructed vegetated swales or reinforced permeable open channels for stormwater conveyance and attenuation;
- (e) Minimize impervious surfaces and have them drain to vegetated areas for flow attenuation, pollutant filtering and groundwater recharge; and
- (f) Reserve adequately sized areas to allow for detention of flows and treatment of pollutants from stormwater before being discharged from the site.

(3) **Specific Stormwater Management Requirements and Performance Standards.**

Except where waived under sec. 17.05(4) of this chapter, all land development activities subject to the provisions of this subsection shall provide on-site stormwater management plans, practices and facilities that meet the following minimum requirements:

(a) Peak Flows.

To minimize streambank erosion and the failure of downstream conveyance systems, the post-development peak flow discharge rates of stormwater runoff shall not exceed the calculated pre-settlement (meadow) conditions for the 2-, 10- and 100 year 24- hour design storms applicable to the site using Runoff Curve Numbers designated in Table 2 of the standards in sec. 17.10(1) of this chapter.

(b) Stormwater Quality.

The first 1/2 inch of stormwater runoff (commonly referred to as the "first flush ") shall, to the extent practical, be treated to remove suspended solids, nutrients, organic matter, trace metals, hydrocarbons and other pollutants associated with the planned land development activity. At a minimum, any best management practice that relies on ponding runoff and settling the suspended solids shall be designed for settling, on an average annual basis, 80 percent of the total estimated suspended solids load. The administering authority may require a higher level of controls if the administering authority determines that the site has a high risk of water pollution or may otherwise impact an environmentally sensitive area, and that further controls are practical.

(c) Protection of Wetlands.

Stormwater discharges shall minimize the hydrologic changes and pollutant loadings to wetlands, to the extent practical, in order to preserve the wetland functional values. All discharges to wetlands shall require the same protection as pars. (a) and (b) above, unless otherwise approved by any other applicable regulatory agency and the administering authority in accordance with technical standards adopted under sec. 17.10 of this chapter. If any land disturbing activity is proposed in a wetland as part of a final stormwater management plan, the administering authority may require all other applicable permits to be obtained prior to the issuance of an erosion and runoff control permit.

(d) Protection of Groundwater Quality.

1. Stormwater discharges shall prevent the introduction of pollutants in the groundwater at concentrations that will likely exceed groundwater preventive action limits or enforcement standards established by the Department of Natural Resources in Wis. Admin. Code NR 140. Pretreatment shall be provided for all stormwater management facilities that will likely violate this subsection, as determined by the Wisconsin Department of Natural Resources or stated in the technical standards adopted under sec. 17.10 of this chapter.
2. Stormwater structures shall not be installed that meet the definition of an injection well under Wis. Admin. Code NR 812.05.
3. Stormwater ponds and infiltration devices shall not be located closer to water supply wells than allowed by the Department of Natural Resources in Wis. Admin. Code NR Chs. 811 and NR 812.
4. If a wellhead protection plan has been approved for any area included in the proposed land development, the administering authority shall consult with the appropriate authority to ensure compliance with any recommendations or regulations contained in that plan.

(e) Flooding.

All stormwater management facilities shall have the capacity to safely handle the calculated peak flow rates for a 100-year 24-hour design storm without structural failure, bank erosion, loss of freeboard or other problems. At a minimum, an emergency spillway must be provided to carry these flows. Additional control measures, such as infiltration practices or maintaining pre-development peak flows for the 100-year design storm, may be required if the administering authority determines that the proposed land development activity has a high risk of creating or significantly compounding downstream flooding or chronic wetness problems.

(f) Soil Investigations.

Soil profile investigations shall be conducted at each site proposed for the construction of a stormwater management facility. Each excavation shall extend a minimum of 3 feet below the proposed bottom of the facility or any component of the facility, such as infiltration trenches. An adequate number of excavations shall be conducted to examine all soil types present in the immediate area of the proposed facility, as determined by the administering authority. Each soil investigation site shall be located on the site development plan, under sub.(5)(b) below

along with the elevation, to the nearest tenth of a foot, of the original ground surface. A soil tester, certified in the State of Wisconsin, or the administering authority is required to log the soil profile and groundwater elevation(s). The administering authority may require an inspection of the soil profile when it is logged by another party.

(4) **Preliminary Stormwater Management Plan Contents.**

Preliminary stormwater management plans shall contain the same information listed under sub.(5) below, with the following exceptions:

- (a) No computations will be required for stormwater conveyance systems, water control structures or other individual system components; and
- (b) No detail drawings, cross-sections or profiles will be required unless the administering authority determines they are necessary to assess the general feasibility of the preliminary stormwater management plan.

(5) **Final Stormwater Management Plan Contents.**

The following shall be the minimum requirements for items to be included in a final stormwater management plan:

(a) Existing Site Map and Data.

The requirements for the existing site map and data are the same as those listed under sub. 17.08(5)(b)1 of this chapter, with the following additional requirement:

- 1. A drainage area map showing drainage divides and pre- and post-hydrologic flow paths that were used in Tc determinations.

(b) Site Development Plan.

A site development plan, using the same map scale as the existing site map, shall include the following map items and supporting documentation:

- 1. Locations and dimensions of all proposed land development activities, including proposed cuts, fills and 2-foot contours;
- 2. Delineation and labeling of all proposed impervious areas and accompanying area computations;
- 3. Location of all proposed stormwater conveyance systems and grade stabilization structures, including grade lines, cross-sections, flow/velocity computations based on a 10-year 24-hour design

storm, and the delineation of proposed subwatersheds for each reach; *[Note: For watershed areas that extend outside of the boundaries of the site map, other scaled maps may be used.]*;

4. Location of all proposed stormwater best management practices and facilities, including plan views, cross-sections, profiles, inlet/outlet and other detail drawings and supporting flow computations;
5. Summary of hydrologic and hydraulic computations prepared to meet the requirements of sub.(3) above, and for the design of all stormwater management facilities. All major assumptions used in developing input parameters shall be clearly stated, and all geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s);
6. Results of investigations of soils and groundwater required under sub.(3)(f) above, including location and elevation of each investigation site, for the placement and design of stormwater management facilities;
7. Location(s) and dimensions of all proposed easements or other methods used to ensure the preservation of flow paths and adequate access for maintenance purposes, in accordance with sec. 17.12 of this chapter;
8. Certification, from a professional engineer registered in the State of Wisconsin, that all calculations and designs included in the final stormwater management plan have been reviewed and approved as being in accordance with the requirements of this chapter.
9. The name, address and daytime phone and FAX number of the contact person during the plan review process, the construction supervisor, and the engineer that will certify construction of all stormwater management facilities under sec. 17.11(4) of this chapter;
10. For sites where changes are proposed in stormwater flow paths, or where proposed stormwater discharges may otherwise have a significant negative impact on downstream property owner(s), the administering authority may require the applicant to obtain written authorization or complete other legal arrangements with the affected property owner(s); and.
11. Other items deemed necessary by the administering authority to ensure compliance with the requirements of this chapter.

17.10 TECHNICAL STANDARDS AND SPECIFICATIONS.

(1) Hydrologic and Hydraulic Computations.

- (a) All computations of runoff volumes and peak flow rates used in the development of erosion control and stormwater management plans in accordance with this chapter shall be based on the principles of Technical Release 55 (TR-55), "Urban Hydrology for Small Watersheds", published by the Natural Resources Conservation Service (NRCS), United States Department of Agriculture, June 1986 revision, using Type II design storms. To determine compliance with this chapter (for Fond du Lac County), the following design storms values shall be used:

Table 1

Design Storm	1-year 24-hour	2-year 24-hour	10-year 24-hour	100-year 24-hour
Rainfall Depth	2.3 inches	2.6 inches	3.9 inches	5.6 inches

- (b) All computations of pre-development conditions as required under sec. 17.09(3)(a) of this chapter shall use those TR-55 runoff curve numbers assigned for a "good" hydrologic condition for each land cover type. For lands where the pre-development land use was cropland, the following TR-55 curve number values shall be used as maximums:

Table 2

Soil Hydrologic Group	A	B	C	D
NRCS Runoff Curve Number	30	58	71	78

- (c) All velocity and peak flow computations for open channels and storm sewer pipe flows shall be based on Mannings Formula.
- (d) Flow routing, culvert design, weir and orifice flow and other related hydraulic computations used to design stormwater management facilities shall be based on standard applicable engineering formulas.
- (e) Any data or design method proposed to be used for hydrologic or hydraulic computations other than those listed above shall be approved in advance in writing by the administering authority.

(2) Best Management Practice Design Standards.

The design of all best management practices used to meet the requirements of this chapter shall comply with the following technical standards:

- (a) The Wisconsin Construction Site Best Management Practice Handbook, published by the Wisconsin Department of Natural Resources;
- (b) Chapter IV of the Field Office Technical Guide, published by the United States Department of Agriculture - Natural Resource Conservation Service; and
- (c) The Wisconsin Stormwater Manual, published by the Wisconsin Department of Natural Resources.
- (d) Other technical standards published or adopted by the above noted agencies, the Wisconsin Standards Oversight Council or the Land Conservation Committee.

(3) **Construction Specifications.**

The construction or installation of all best management practices and other structures shall comply with all the construction specifications adopted by the Land Conservation Committee, including standard seeding or sodding deadlines for site stabilization.

(4) **Availability.**

Copies of all technical standards, guidelines and specifications adopted by the Land Conservation Committee shall be available for review and distribution through the Land Conservation Department. Fees may be charged for copies of these items in accordance with a fee schedule established by the Land Conservation Committee.

(5) **Future Revisions or Updates.**

The technical standards, guidelines and specifications referenced in this section are made a part of the chapter and shall be updated periodically in order to keep current with field experiences, research, technological advances and the development of related technical standards by other agencies and units of government. Any future revision or update of the technical standards or specifications incorporated herein are also made part of this chapter unless otherwise acted upon by the Land Conservation Committee.

17.11 PERMIT REQUIREMENTS.

(1) **General Conditions.**

For all permits issued under this chapter, the permit holder shall:

- (a) Obtain all other applicable Federal, State, County or local permits and comply with all other applicable regulations. The administering authority may require the applicant to obtain other permits or plan approvals prior to issuing an erosion and runoff control permit.
- (b) Complete all activities in accordance with the plan(s) and construction schedule approved by the administering authority. Any changes made during implementation without prior approval by the administering authority shall be subject to enforcement action under sec. 17.13 of this chapter.
- (c) Notify the administering authority at least 24 hours in advance of commencing any work associated with the permit. The administering authority may require further notification of work on various stages of construction or upon completion of individual components for inspection purposes.
- (d) Authorize the administering authority access to the property to perform inspections and to carry out any necessary enforcement activities under sec. 17.13 of this chapter.
- (e) Inspect all best management practices after each rain event of 0.5 inch or more, or at least once each week, and make any needed repairs. The permit holder shall maintain best management practices until the financial guarantee under sub.(3) below is released by the administering authority.
- (f) Clean up all off-site sediment deposits and repair any erosion or other damage occurring as a result of construction work or a storm event at the end of each work day, or within any other time period approved by the administering authority. Flushing of sediment is not allowed.

(2) **Permit Issuance and Duration.**

- (a) The administering authority shall establish an expiration date for all permits issued under this chapter. The expiration date shall not exceed 18 months and shall be based on the construction schedules submitted by the applicant under subs. 17.08(5)(b)2.e. and 17.08(5)(b)2.h. of this chapter, and the technical standards and specifications adopted by the Land Conservation Committee under sec. 17.10 of this chapter.
- (b) The administering authority may grant longer permit periods or grant extensions to existing permits if deemed necessary to ensure compliance with this chapter or Land Conservation Committee policy. The administering authority may require additional erosion and runoff control measures as a condition of granting longer permit periods or permit extensions.

- (c) In accordance with the technical standards and specifications in sec. 17.10 of this chapter, the administering authority may withhold issuance, suspend or revoke an erosion and runoff control permit, or require a change in the proposed construction schedule as a condition of a permit under sub. (1) above, if the administering authority determines that all of the following apply:
 - 1. The proposed or actual land disturbing activity will exceed standard deadlines for seeding and sodding;
 - 2. Runoff or erosion from the site may significantly impact an environmentally sensitive area or cause other off-site environmental or property damage; and
 - 3. The applicant or permit holder is unable or unwilling to provide other approved measures to minimize off-site impacts.

(3) **Financial Guarantee.**

(a) Purpose and Type.

A bond, escrow or letter of credit in a form approved by the administering authority shall be required for all erosion and runoff control permits issued to ensure compliance with this chapter.

(b) Amount.

The amount of the financial guarantee shall be determined by the administering authority and shall be based on the estimated costs of construction of the best management practices in the approved erosion control and/or stormwater management plan(s) plus any costs for best management practice maintenance that may be needed during the construction phase or immediately after the site is stabilized, such as sediment removal.

(c) Security.

Each financial guarantee shall be accompanied by a written agreement outlining its purpose, applicable amounts and all of the conditions for release.

(d) Conditions for Release.

- 1. The administering authority shall release the financial guarantee only after determining full compliance with the requirements of the permit and this chapter, including the following:

- a. Certification of construction by a professional engineer, in accordance with sub.(4) below;
 - b. Completion of a satisfactory final inspection by the administering authority in accordance with sub (5) below;
 - c. Submittal of a copy of the recorded maintenance agreement, in accordance with sec. 17.12 of this chapter.
- 2. The permit holder may apply for a prorated release of the financial guarantee based on the completion or partial completion of various construction components or satisfaction of individual requirements of par.(d) above.
 - 3. The administering authority shall withhold from the financial guarantee amount released to the permit holder, any costs incurred by the County to complete installation or maintenance of best management practices through enforcement action, as described in sec. 17.13 of this chapter, or prior to the transfer of maintenance responsibilities through an approved maintenance agreement, or other unpaid fees or costs incurred by the County associated with the administration of this section.

(e) Other Financial Guarantees.

The financial guarantee provisions of this chapter shall be in addition to any other financial guarantee requirements of the town board for other site improvements. Any arrangements made to combine the financial guarantee provisions of this chapter with other related requirements shall be made at the discretion of the administering authority.

(4) **Construction Certification.**

- (a) A professional engineer, licensed in the State of Wisconsin, shall be in responsible charge and certify that the construction of all stormwater management facilities, and other best management practices as determined by the administering authority, comply with the plan(s) approved by the administering authority and the technical standards and specifications of sec. 17.10 of this chapter.
- (b) "As-built" plans shall be submitted for all stormwater management facilities and other permanent best management practices or practice components as deemed necessary by the administering authority to ensure compliance with this chapter. As-built plans shall document, on maps and drawings of the same scale and quality as the site

development plan, actual location, elevations, materials, construction specifications and other items and be certified by the project engineer.

(5) **Final Inspection.**

After completion of construction, the administering authority shall conduct a final inspection of all sites regulated by this chapter to assist in determining compliance with the approved plan(s) and other applicable requirements, the permit and this chapter. If upon inspection, the administering authority determines that any of the applicable requirements have not been met, the administering authority shall notify the permit holder what changes would be necessary to meet the requirements. At the request of the permit holder, the administering authority shall provide notification of noncompliance or a report of final inspection in written or electronic form.

17.12 MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES.

(1) **Maintenance Agreement Required.**

A maintenance agreement between the local municipality or other approved unit of government and the proposed property owner(s) shall be required for all stormwater management facilities installed to comply with the requirements of this chapter. The agreement shall be independent of all other restrictions or covenants and shall be prepared in accordance with this section.

(2) **Agreement Provisions.**

The maintenance agreement shall, at a minimum, contain the following information and provisions:

- (a) Identification of the owner(s) of the land parcel where the stormwater management facility is located;
- (b) Identification of each type of stormwater management facility and a general description of its purpose and design, including but not limited to facility dimensions, inlet and outlet design and dimensions and the drainage area served by the facility;
- (c) A description of all long term maintenance activities that may or will be required for each stormwater management facility, and an estimated time interval between each activity;
- (d) Granting of an access easement for access to all stormwater management facilities that is a minimum of 15 feet wide, not including

drainage easements, right-of-ways or other restricted areas, and a minimum 12 foot wide travel lane within this area that is capable of withstanding construction equipment loads for future maintenance work.

- (e) Identification of the landowner(s), organization, municipality or other entity responsible for long term maintenance of the stormwater management facility;
 - (f) Authorization for access to the property by employees of the Fond du Lac County Land Conservation Department, the local unit of government and other applicable authority to conduct regular inspections of the facility, monitor its performance and maintenance, and notify the designated entity when maintenance or repair activities are necessary; *[Note: Some or all of these activities may be carried out in accordance with a intergovernmental working agreement under §66.30, Wis. Stats.]*
 - (g) Recognition that, upon written notification, the designated entity shall, within a reasonable time period, complete any needed maintenance or repair work recommended as a result of an inspection of the facility;
 - (h) Authorization for the town, Fond du Lac County and/or other designated authority to carry out any maintenance activities if the designated entity does not perform the required maintenance or repair work within the time period specified in par. (g) above;
 - (i) Recognition that the applicable local government may exercise their statutory authority to levy and collect special assessments and charges under §60.60, Wis. Stats., for any services carried out relating to par. (h) above;.
 - (j) Language confirming that the entire agreement shall remain binding among all parties to and within the agreement, until changes are mutually agreed to in writing by all parties. Any changes made to the agreement must maintain the minimum items listed in this subsection and the long term maintenance of the stormwater management facility.
 - (k) Other information as determined to be necessary by the administering authority or the Land Conservation Committee to ensure compliance with this chapter.
- (3) **Agreement Approval and Recording.**
- (a) The administering authority shall ensure that all submitted maintenance agreements comply with sub.(2) above. If the agreement

does not comply, the administering authority shall notify the applicant or permit holder what changes are needed in order to comply.

- (b) Upon certification of compliance with sub.(2) above by the administering authority, the maintenance agreement shall be recorded at the Fond du Lac County Register of Deeds referencing any plat, certified survey or other ownership transfer device pertaining to land which contains a stormwater management facility or is subject to maintenance responsibility in the approved agreement. The agreement as recorded shall ensure that the maintenance requirements are binding on all subsequent owners of the property upon which the stormwater management facility is located and that the restrictions run with the land and on any other property which is subject to maintenance responsibility in the agreement.
- (c) The permit holder shall provide a copy of the recorded agreement, including evidence of the actual recording(s), to the administering authority.

(4) **Agreement Form.**

The maintenance agreement requirements of this section may, at the discretion of the administering authority, be a separate document or may be incorporated into a developers agreement. The form of the document proposed for recording shall be reviewed and approved by the administering authority. Any method used shall comply with all of the requirements of this section.

(5) **Maintenance Responsibilities Prior to a Maintenance Agreement.**

The permit holder shall be responsible for the maintenance of all stormwater management facilities prior to a satisfactory final inspection under sec. 17.11(5) of this chapter and the release of a financial guarantee under sec. 17.11(3) of this chapter.

17.13 ENFORCEMENT.

(1) **Administering Authority.**

The administering authority is authorized to administer and enforce compliance with this chapter. The administering authority shall have the following powers and duties:

- (a) Advise applicants as to the requirements of this chapter and assist them in completing forms and other related administrative procedures.

- (b) Review applications, issue permits, and make all determinations stated in this chapter.
- (c) Conduct on-site inspections and investigate complaints in a timely manner to ensure compliance with this chapter.
- (d) Maintain records of all permits issued, inspections and determinations made, work approved, enforcement action and other official action.
- (e) Make recommendations to the Land Conservation Committee on any revisions or updates to this chapter, including keeping all technical standards, construction specifications and administrative tools current and advising on policy issues.
- (f) Assist the Board of Adjustment with the appeal process by providing the necessary information for their consideration and action.
- (g) Carry out duties relating to ensuring the long term maintenance of stormwater management facilities, such as site inspections and making recommendations for needed repairs or maintenance, in accordance with approved working agreements.

(2) **Prohibited Practices.**

It shall be deemed a violation, and be subject to enforcement action, for any person, firm, association, corporation or other entity subject to the requirements of this chapter to do any of the following:

- (a) Commence in any land disturbing or land development activity prior to:
 1. Obtaining an erosion and runoff control permit;
 2. Notifying the administering authority a minimum of 24 hours in advance of commencement of the activity;
 3. Installing those best management practices identified in the approved plan(s).
- (b) Fail to follow the approved plan(s), or other permit conditions, including but not limited to the required construction sequence, practice installation and technical standards or specifications.
- (c) Fail to maintain, repair or replace any best management practice deemed ineffective prior to the release of a financial guarantee.

(3) **Violations.**

- (a) The administering authority is authorized to use the following methods of enforcement in any combination thereof against any person, firm, association, corporation or other entity that is found to be in violation of any provision of this chapter:
1. Forfeiture. Any violator shall be subject to a forfeiture of not less than \$50 or more than \$500 plus the cost of prosecution for each violation. Each day that a violation exists shall constitute a separate offense.
 2. Stop Work Order. Any violator is subject to an order to stop all work except that which is needed as a corrective action to bring the site into compliance, or the Corporation Counsel may be requested to obtain a temporary restraining order and such other remedial court orders as shall be necessary to ensure compliance.
 3. Permit Revocation. The administering authority may revoke a permit issued under this chapter if the administering authority determines that the permit holder is not making a good faith effort to comply with the conditions of the permit. Upon loss of the permit, all construction shall cease and the site shall be stabilized, with any costs incurred by the County or local government to be charged against the financial guarantee.
 4. Emergency Action. The County may enter upon the property and take any necessary emergency action if the administering authority determines that the site in violation is an immediate threat to public health, safety, welfare, the environment or downstream property, or if the permit holder or other violator refuses to take the corrective action as ordered by the administering authority. Any cost incurred by the County as a result of this action shall be billed to the permit holder or subtracted from the financial guarantee provided by the permit holder. Failure to pay said costs on a timely basis shall constitute a violation of this chapter.
- (b) Any enforcement measures shall continue until compliance is achieved or as ordered by the court.
- (c) The administering authority shall notify the permit holder, in writing, of any violation. The written notice shall be hand delivered to the permit holder or sent by certified mail and shall describe the violation, remedial action(s) needed, a schedule for all remedial action to be completed, and additional enforcement action which may be taken.

- (d) The schedule established by the administering authority for required remedial action shall be based on a reasonable amount of time required to carry out the remedial action.
 - (e) Private Enforcement. Any person affected by activities regulated under this chapter may enforce the provisions of this chapter by private action seeking an injunction.
- (4) **Responsible Party.**
- For purposes of determining the responsible party or parties for any enforcement action under this chapter, the phrase "person, firm, association, corporation or other entity" as used in this chapter shall include, as the context requires, any owner, lessee, tenant, mortgagee, trustee, land contract vendor or vendee, or other holder of any legal or equitable interest in the particular land subject to this chapter and shall also include any contractor, subcontractor, engineer, consultant, agent or employee retained or acting on behalf of any of the preceding and having any material responsibility or having undertaken any activity with respect to the particular land subject to this chapter.

17.14 APPEALS.

- (1) **Authority.**
 - (2) **Procedure.**
 - (3) **Variations.**
- The Fond du Lac County Board of Adjustment shall act as the review and appeal authority for any order, requirement, decision or determination by the administering authority under this chapter.
- The rules, procedures, duties and powers of the Fond du Lac County Board of Adjustment shall be as provided in the County Code and the provisions of §59.694, Wis. Stats., shall apply to any review or appeal under this chapter.
- Upon appeal, the Fond du Lac County Board of Adjustment may authorize variations from the provisions of this chapter which are not contrary to the public interest or the purpose of this chapter, and where owing to special conditions beyond the control of the applicant, a literal enforcement of this chapter will result in unnecessary hardship.

(4) **Who May Appeal.**

Appeals to the Fond du Lac County Board of Adjustment may be taken by any aggrieved person or by an officer, department, board, or bureau of the County affected by any decision of the administering authority.

17.15 SEVERABILITY.

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

17.16 DEFINITIONS.

The terms used in this chapter shall have the following meaning:

- (1) **"Administering authority"** means the County Conservationist or his or her designee.
- (2) **"Affected"** as used in sec. 17.13(3)(e) of this chapter, means that a regulated activity has significantly:
 - (a) Caused negative impacts on water quality or the use or maintenance of one's property or business; or
 - (b) Endangered one's health, safety or general welfare.
- (3) **"Agricultural crops"** means any plant grown for the purpose of harvest to support a business.
- (4) **"Best management practice"** means a practice, technique or measure that is an effective, practical means of preventing or reducing soil erosion and/or water pollution from runoff both during and after land development activities. These can include structural, vegetative or management practices.
- (5) **"Common plan of development"** means all lands included within the boundary of one or more certified surveys or other land divisions where multiple, separate and distinct land development activity may occur at different times.
- (6) **"Construction site erosion control"** means preventing or reducing soil erosion and sedimentation from land disturbing activity.
- (7) **"Design storm"** means a hypothetical depth of rainfall that would occur for the stated return frequency (e.g. 2-year or 10-year) and duration (e.g. 24-hour). All values are based on the historical rainfall records for the area

and are available for reference in many publications. *[Note: See sec. 17.10(1) of this chapter for a table of applicable design storms for Fond du Lac County.]*

- (8) "**Environmentally sensitive area**" means any area that, due to the natural resources present or the lack of filtering capacity, is significantly more susceptible to the negative impacts of sedimentation and other pollutants associated with erosion and urban runoff. Examples include direct hydrologic connections to lakes, stream, wetlands or other water resources, very coarse or shallow soils to groundwater or bedrock, or areas inhabited by endangered resources.
- (9) "**Final grading**" means the placement of topsoil over disturbed areas in accordance with the requirements of sec. 17.08(3) of this chapter.
- (10) "**Impervious surface**" means any land cover that prevents rain or melting snow from soaking into the ground, such as roofs (including overhangs), roads, sidewalks, patios, driveways and parking lots. For purposes of this chapter, all road, driveway or parking surfaces, including gravel, shall be considered impervious, unless specifically designed to encourage infiltration and approved by the administering authority.
- (11) "**Impractical**" means that complying with a specific requirement would cause undue hardship and that special conditions exist which are beyond the control of the applicant and would prevent compliance.
- (12) "**Infiltration**" means the process by which rainfall or runoff seeps into the soil.
- (13) "**Intercept soil transport**" means the process of trying to prevent delivery of sediment by installing a silt fence or some other form of sediment trap in the flow path to slow flows and settle the suspended soil particles.
- (14) "**Land Conservation Committee**" means the committee of the Fond du Lac County Board of Supervisors that is created under the authority of §92.06, Wis. Stats., with the powers and duties specified in the Ch. 15 of this Code.
- (15) "**Land Conservation Department**" means the County department that is charged with implementing the soil and water conservation policies and programs of the Fond du Lac County Land Conservation Committee, including this chapter.
- (16) "**Land disturbing activity**" means any construction related activity that exposes soil to the erosive forces of wind, rain and snow melt. Land disturbing activities include removing vegetative cover, grading, excavating and filling. It does not include the planting, growing and

harvesting of agricultural crops or mining activity that is otherwise regulated through a local mine reclamation ordinance.

- (17) "**Land development activity**" means any construction related activity that results in the addition or replacement of impervious surfaces such as rooftops, roads, parking lots and other structures.
- (18) "**No appreciable off-site impact**" means that the impact of any land disturbing or land development activity on off-site property or natural resources would be negligible due to site conditions, such as internal drainage or a very large vegetative buffer area surrounding a small building project.
- (19) "**Peak flow**" means the highest flow rate of runoff, measured in cubic feet per second, that would normally result from a given design storm.
- (20) "**Permanent best management practice**" means any best management practice that is designed to remain in place after the development is complete. They are designed to stabilize the site or to permanently manage stormwater runoff.
- (21) "**Practical**" means that complying with a specific requirement does not cause undue hardship and that special conditions do not exist which are beyond the control of the applicant and would prevent compliance.
- (22) "**Pre-development condition**" means the conditions of the land surface, including vegetative cover and natural drainage patterns, prior to the proposed land development activity. For purposes of this chapter, all pre-development conditions shall assume good land management and good "hydrologic condition," as stated in TR-55.
- (23) "**Regional stormwater management plan** " means a published document that establishes a planned course of action for managing stormwater runoff from an entire drainage area or watershed, including future land development activities within the watershed. A regional stormwater management plan will recommend the use of best management practices for individual development sites and for selected points within the watershed to meet the goals and objectives of the plan.
- (24) "**Roads** ", as used in sec. 17.05(2)(b) of this chapter, means any access drive that serves more than 2 residences or businesses.
- (25) "**Runoff**" means any rain or melting snow that flows over the ground surface. (Also referred to as stormwater runoff.)
- (26) "**Shoreland/wetland/floodplain zone**" means the land area that is within the districts identified as the shoreland/wetland/floodplain zone on the

official zoning maps of the Fond du Lac County Land Use and Park Department. The shoreland zone generally includes all lands within 300 feet of a navigable stream or 1,000 feet from a lake shore. The wetland and floodplain zoning districts may extend beyond the shoreland zone.

- (27) "**Soil detachment**" means the first step in the soil erosion process, or the dislodging of the soil particle from raindrop impact, water flow or wind. After detachment, the soil particle can be suspended and carried in runoff or wind to another site. Soil detachment is reduced by providing a vegetative or synthetic cover over the soil surface or through the application of soil treatment measures designed for this purpose.
- (28) "**Stabilized**" means that vegetation is well established or other surfacing material is in place and the risk of further soil erosion is minimal.
- (29) "**Stormwater management**" means any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality from urban areas after land development activities.
- (30) "**Stormwater management facility**" means any structural best management practice, such as a retention pond, infiltration basin or other physical structure, that is designed to collect and permanently manage the quantity and/or quality of stormwater runoff.
- (31) "**Subsoil**" means the "B" horizon in any natural soil profile. Natural soil profiles are described in detail in the Soil Survey of Fond du Lac County.
- (32) "**Temporary best management practice**" means any best management practice that is intended to reduce soil erosion and/or sediment in runoff during the construction phase only, and is intended to be removed after the site is stabilized.
- (33) "**Topsoil**" means the "A" horizon found in any natural soil profile not formed from organic material. Natural soil profiles are described in detail in the Soil Survey of Fond du Lac County.
- (34) "**Total suspended solids load**" means the total weight of material, including sediment and other solids, that is assumed to be carried in the runoff water and discharged from the site based on runoff models for urban lands. For best management practice design purposes, a 5 micron particle size is usually selected as a target to achieve 80% total suspended solids removal rate, as required in sec. 17.09(3) of this chapter.
- (35) "**Unnecessary Hardship**" means that circumstances where special conditions, which were not self-created, affect a particular property and make strict conformity with this chapter unnecessarily burdensome or unreasonable in light of the purpose of this chapter.

- (36) "**Watershed**" means the total area of land where runoff drains to a specific point on the landscape. It is also referred to as the drainage area.
- (37) "**Wetland functional values**" means the type, quality and significance of the ecological and cultural benefits provided by the wetland, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation and education.
- (38) "**Working day**" means a day when the administering authority and other local businesses are routinely and customarily open for business, not including Saturdays, Sundays or scheduled holidays. When used in sec. 17.08 of this chapter, relating to specific erosion control requirements, the term working days shall not include any days that site stabilization activities could not reasonably be carried out due to inclement weather conditions.