

CHAPTER 2

Lake Michigan Storm Sewer Utility District and Root River Storm Sewer Utility District Regulations and Rates

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SEC. 9-2-1 PURPOSE.

The purpose of this Chapter is to establish rules and regulations for the Lake Michigan Storm Sewer Utility District and Root River Storm Sewer Utility District, town utility districts, to administer drainage within the boundaries of the Districts.

SEC. 9-2-2 DEFINITIONS.

In this section:

- (a) **Extensive Storm Water Drainage Facilities** means those facilities within a new development or down gradient of a new development which are necessary to accommodate, in their *future* state of development, any lands lying within the development and any lands lying up gradient and within the same drainage basin as the development.
- (b) **Non-extensive Storm Water Drainage Facilities** means those facilities within a new development and down gradient of a new development, which are reasonably necessary to accommodate drainage from any lands in their *present* state lying up gradient and within the same drainage basin as the development and to accommodate the land within the proposed development in its future state of full development.
- (c) **Principal Structure** means a structure used or intended to be used for the principal use as permitted on such lot by the regulations of the zoning district in which it is located.
- (d) **Responsible Person** means the property owner, government agency, or other legally established entity responsible for maintenance of a detention facility.
- (e) **Storm Water Drainage Facilities** means any storm sewer, culvert bridge, ditch, river, creek, swale, stream, canal, detention or retention basin, pond, lake or stabilization structure utilized to convey/store storm water runoff from one point to another.
- (f) **Drainage System** means any Storm Water Drainage Facility and other means of conveying storm water run-off, natural or-artificial, public or private from one point to another.

SEC. 9-2-3 COMPREHENSIVE DRAINAGE PLAN.

- (a) The Town of Caledonia Comprehensive Drainage Plan, adopted by the Town Board on July 7, 1977, shall be used by the Commission as the guide for the design and construction of drainage facilities within the Districts.
- (b) The Town and the Commission shall have the responsibility of interpreting and applying the Comprehensive Drainage Plan in the course of reviewing and approving any plan submitted under this chapter. The Town and the Commission may vary the Plan if, in their judgment, it is necessary for the proper drainage of the property under review or of lands in the vicinity of the property under review.

SEC. 9-2-4 DISRUPTION OF DRAINAGE PROHIBITED.

- (a) It shall be unlawful for any person, firm, corporation or public utility to fill or obstruct any ditch alongside a Town road, any drainage easement or any creek, stream, river, canal or drainage system within the Districts with dirt, debris or obstruction without prior written approval of the Town Engineer or his/her designee.
- (b) It shall be unlawful for any person, firm, corporation or public utility to landscape, cultivate, plow or remove soil from their property within the Districts in such manner as to obstruct or fill any Town ditch, drainage easement, creek, stream, river, canal or drainage system without prior written approval of the Town Engineer or his/her designee.
- (c) Any person, firm, corporation or public utility who fills or obstructs or causes to be filled or obstructed any Town ditch, drainage easement, creek, stream, river, canal or drainage system within the Districts in violation of subsections (a) and (b) above shall, on written order from the Town Engineer, correct such violation and restore the affected area at his/her own expense. If corrective and restorative action is not commenced within ten (10) days after receipt of such written order, or is not completed within such reasonable time as the Town Engineer shall specify in writing, the Town Engineer shall notify the Commission of the violation, and the Commission may proceed with such work and charge the costs of the work to the violator, to be collected through legal action or the levying of a special assessment or charge as provided in §66.0627, Wis. Stats.
- (d) Failure to comply with the provisions of this section may constitute a public nuisance.
- (e) Any person, firm, corporation or public utility violating the terms of this section shall be guilty of a violation and upon adjudication shall be subject to a forfeiture of not less than \$100 nor more than \$500, plus the costs of prosecution and, in default of payment thereof, shall be subject to imprisonment in the County Jail for not less than ten (10) days nor more than thirty (30) days.

SEC. 9-2-5 DRAINAGE REQUIREMENTS FOR NEW DEVELOPMENTS.

- (a) **General Requirements.**
 - (1) Prior to approval of a subdivision or condominium plat, certified survey map, conditional use or building permit, the Town Board shall require a developer to:
 - a. Agree to construct and install such storm water drainage facilities as are determined by the Commission to be reasonably necessary to provide for the

ultimate drainage of, through and from the subdivision or development to a proper drainage outlet.

- b. Prevent the flooding or saturation of lands within or adjacent to the subdivision or development. Such improvements may include the relocation of existing drainage courses or facilities which are disrupted by the subdivision or development.
- (2) At a minimum, the developer, at his/her cost, shall be required to install non-extensive storm water drainage facilities for the lot, subdivision or development. If deemed necessary, the Commission may require the developer to install extensive storm water drainage facilities.
 - (3) These requirements are in addition to those set forth below in Section 9-2-10. Where any provision in this chapter imposes requirements different from those imposed by any other ordinance, rule, or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.
- (b) **Plans and Specifications.** A developer requesting approval of a subdivision, condominium plat, certified survey map, conditional use or building permit, shall submit to the Commission for its approval, acceptable site grading and drainage plans, specifications and computations. Such plans, specifications and computations, shall conform to the provisions of Title 14 of the Code of Ordinances.
 - (c) **Developer's Liability.** The developer shall be liable for all costs related to site grading and storm water drainage. Such costs shall include, but not be limited to: materials, labor, engineering, inspections, permit fees, plan review, adjustment or relocation of utilities, insurance, legal fees and sureties. All construction work shall conform to the provisions of Title 14 of the Code of Ordinances and the approved development plans and specifications.

SEC. 9-2-6 DRAINAGE IMPACT FEE.

- (a) **Imposition.**
 - (1) A storm water drainage impact fee shall be imposed by the Commission on all new subdivisions, land splits, vacant land where an impact fee has not been previously collected, vacant land where a residential, commercial or industrial building permit is being requested, and on that portion of an existing commercial or industrial site where an impact fee has not been previously collected, but which is undergoing a substantial site modification.
 - (2) Impact fees shall be collected by the Town Treasurer in full, as follows:
 - a. In the case of subdivisions and land splits, fees shall be collected at the time or prior to the Town's execution of a Subdivision Final Plat or Certified Survey Map.
 - b. In the case of vacant land, an impact fee shall be collected prior to the issuance of a building permit.
 - c. In the case of a substantial site modification, an impact fee shall be collected prior to the issuance of a conditional use permit.
 - (3) The initial Unit Drainage Fee (UDF), as recommended by the District Comprehensive Impact Fee and Needs Assessment Study, shall be \$1,480 per acre for land located within the Lake Michigan Storm Sewer Utility District and

\$300.00 per acre for land located within the Root River Storm Sewer Utility District.

- (4) The impact fee shall be calculated based upon the following equation:

$$TF = RF \times UDF \times TA$$

where TF = Total fee
 RF = Runoff factor
 UDF = Unit drainage fee
 TA = Actual or modified total acreage of development

- (5) Runoff factors shall be established utilizing predetermined runoff curve numbers (CNs) and the following table:

RUNOFF FACTORS FOR SELECTED CNs

Curve Number (CN)	Runoff Factor (RF)	Curve Number (CN)	Runoff Factor (RF)
40	0.03	75	0.81
45	0.09	80	1.00
50	0.16	85	1.20
55	0.26	90	1.43
60	0.37	95	1.68
65	0.50	98	1.84
70	0.65		

- (6) Runoff factors for CNs that are not shown shall be interpolated.
- (7) CN factors shall be calculated by the developer at his/her expense according to the Curve Number Tables 2.2a, 2.2b, and 2.2c which are found in the Soil Conservation Service Technical Release No. 55, dated June, 1986. Such calculation shall be accompanied by supporting engineering data. CN factors shall be calculated assuming that the entire development is in its full state of development. The final CN factor shall be a weighted CN factor and shall reflect the average CN factor for the entire development. All CN factor calculations shall be subject to approval by the Commission.
- (8) When calculating the Total Acreage (TA) portion of the equation, the TA shall include all areas within the subdivision or condominium plat or within the area of the conditional use or certified survey map, including, but not limited to, public or private rights of way, easements, lots, and outlots. In agricultural and residential developments, with the exceptions of condominium developments and clustered planned unit developments, the TA portion of the equation shall be calculated assuming a maximum lot or outlot area of one acre per lot or outlot.

SAMPLE CALCULATION OF DRAINAGE FEE

Given: Curve Number (CN) = 83
 Unit Drainage Fee (UDF) = \$1,480/acre
 Total Development Area = 16.00 acres
 Includes 24 lots at 0.50 each
 1 outlot at 3.10 acre
 600 feet of 66-foot-wide road right-of-way that is equal to
 0.90 acre.

Find: Total Fee
 RF = 1.12 (interpolation from chart)
 TA = (24 x 0.50) + (1 x 1) + 0.90
 TA = 13.90 acres
 TF = RF x UDF x TA
 TF = 1.12 x \$1,480 x 13.90 = \$23,040.64
 Cost/lot = \$960

(b) **Credit for Extensive Facilities.**

(1) In cases where the Commission requires the developer to install extensive facilities, a developer shall receive credit towards the drainage fee provided in subsection (a) as follows:

- a. A developer, at his/her expense, shall prepare two estimates of cost -- one estimate for the non-extensive facilities and one estimate for the extensive facilities. Each estimate shall be accompanied by sufficient engineering design information to provide adequate support for each estimate. Such estimates shall provide for the construction and installation of any open channels, conduits, retention or detention facilities, road culverts, bridges or any other drainage facilities which are needed to adequately carry storm water through a development to a proper discharge point. Such estimates shall be reviewed by the Commission to ensure the most efficient and effective drainage scheme is utilized in each case and to ensure that both estimates were prepared in an honest and professional manner.
- b. If the Commission approves both estimates, the developer shall be granted credit toward the drainage fee on any development equal to the difference of the two estimates of cost. In no case shall such credit exceed the drainage fee on the new development.

(c) **Impact Fee Accounting.** The Commission shall keep accurate accounting records for all impact fees collected for each given year. All fees shall be deposited in a segregated interest bearing account. All impact fee revenues and interest earned on impact fee revenues shall only be used to pay for capital costs of storm water drainage improvement projects of the Districts that are necessary to accommodate land development.

(d) **Refund Procedure.** Any impact fee funds not expended or encumbered by the end of the calendar quarter, immediately following six (6) years from the date the

impact fee was paid, shall, upon written application of the current owner of the property for which the fees were imposed, be returned to that fee payer, with interest earned.

- (e) **Appeal Procedure.** A developer upon whom an impact fee is imposed may, within fifteen (15) days of the imposition of the impact fee, contest the amount, collection or use of the impact fee by filing a written appeal with the Secretary of the Commission and the Town Clerk, specifying the basis upon which the appeal is being filed. The Town Clerk shall schedule a hearing before the Town Board on the appeal within thirty (30) days of the filing of the appeal and shall notify the developer and Secretary of the Commission in writing of the hearing date and time.

SEC. 9-2-7 DETENTION AND RETENTION FACILITIES.

- (a) **Requirement.**
 - (1) The Districts shall require a developer to provide detention of storm water for all areas to be disturbed, unless tributary to an existing regional storm water facility that can accommodate the development’s increased flow. Storm water conveyance through a development shall accommodate up gradient flows.
 - (2) Detention facilities shall be designed and shall conform to the requirements of Title 14 of the Code of Ordinances. Detention facilities must be sized for developed conditions to impound storm water during the 100-year recurrence interval storm within a maximum release rate designed as follows:

DETENTION BASIN DESIGN CRITERIA

<u>Storm Event Inflow (Post-Development Conditions)</u>	<u>Storm Event Outflow Limit (Pre-Development Conditions)</u>
2	2
5	2
10	2
25	5
50	10
100	25

- (3) Lands which contribute storm water runoff to the basin shall be assumed to be fully developed in their future state as shown on the Racine County Zoning Map. The Commission's interpretation of necessary design criteria shall be the standard for the design for all detention facilities.
- (b) **Construction.**
 - (1) All detention facilities shall be constructed pursuant to Title 14 of the Code of Ordinances. The Commission shall specify appropriate storm

drainage control measures to be used during construction.

- (2) The standards for completed projects shall also apply to periods of construction, whenever possible. Failure to adequately provide for storm drainage control measures shall be sufficient reason to deny the application.
- (3) Any detention facility constructed shall be regularly maintained in order to preserve its function, capacity and appearance. Minimum standards for maintenance shall be as follows:
 - a. All grass or other ground cover in the basin shall be kept mowed or otherwise cut so as not to exceed a height of 8 inches at any time. The facility shall be kept clean and free of debris, litter, leaves and foreign material of any kind.
 - b. All inlet and outlet structures, spillways and other appurtenances shall, at all times, be kept free of any debris or foreign material in order to prevent clogging or reduction in performance.
 - c. An emergency overflow spillway shall be provided on all ponds, enabling safe discharge of stormwater flow during extreme flooding conditions without causing damage to adjacent downstream structures.
 - d. All embankments, inlet and outlet structures, gate valves, dams and other lateral supports shall be kept in sound condition at all times.
 - e. Any fence installed around the perimeter of the facility shall be maintained in sound condition and shall be repaired or replaced whenever needed. "No Trespassing" signs shall be installed around the perimeter of the basin.
 - f. The facility shall be kept free of water pollutants, excessive or unhealthy insect growth, algae growth or evidence of any other significant health risk.
 - g. The original storage capacity of the facility shall be permanently maintained.
 - h. The perimeter of the facility shall be kept reasonably free of erosion.
 - i. In the case of dry facilities, all subsurface tile drainage systems shall be kept in good operation conditions so as to adequately drain the basin and soils lying immediately beneath the surface within a reasonable length of time following a heavy rain.
- (4) Responsibility for operation and maintenance of detention facilities, including periodic removal and disposal of accumulated particulate material and debris shall remain with the owner, unless assumed by a governmental agency. If portions of the land are sold, legally binding agreements shall pass the responsibility to successors in title. Such agreements shall deem the "responsible person" to be the property owner, governmental agency or other legally established entity responsible for maintenance.

(c) **Ownership and Maintenance.**

- (1) Prior to the approval of a plan for development containing a proposed

- detention basin, the Commission shall determine whether the facility shall be publicly owned and maintained by a governmental agency or privately owned and maintained by the developer and any successors in title.
- (2) Prior to granting approval of any project containing any detention facility, the applicant shall enter into an agreement with the Commission and the Town to ensure the continued operation and maintenance of the detention facility. The agreement shall be in a form satisfactory to the Commission and the Town, and may include, but not be limited to, personal guarantees, deed restrictions, covenants and bonds. In cases where property is subdivided and sold separately, the Commission and the Town may approve a homeowner's association or similar permanent entity to be designated as the "responsible person".
 - (3) In the event that any such detention facility becomes a danger to public health or safety or is in need of maintenance, the Commission shall notify the "responsible person" in writing. The "responsible person" shall have 30 days from the date of the notice to complete the maintenance and repair of the facility in a manner approved of by the Commission or, if deemed necessary by the Commission, a shorter period of time as the Commission shall specify in the notice. If the "responsible person" fails or refuses to perform such maintenance and repair within the time period, the Commission may immediately proceed to do so and charge the cost to the "responsible person". If the charges are not paid within six (6) months, the unpaid amount shall be prorated among and charged as, additional real estate taxes against the properties to the "responsible person" as specified in sub. 2., which shall constitute a lien on the real properties, the same as other real estate taxes.

SEC. 9-2-8 PREPARATION OF ANNUAL BUDGET

- (a) The Commission shall adhere to the provisions of s. 65.90, Wis. Stats. when formulating the annual operating budget for the Districts, to ensure that the budget provides an accurate, detailed representation of the Districts' cash flow.
- (b) All expenditures of the Districts shall be specified in the operating budget which shall include, but not be limited to, the following:
 - (1) Capital projects under the Districts' jurisdiction, including the title, scope and annual cost of each project.
 - (2) The cost of all public works and maintenance projects.
 - (3) All debt service.
 - (4) Any other District expenditures.
- (c) All revenues and receipts shall be specified in the operating budget which shall include, but not be limited to, the following:
 - (1) Taxes.
 - (2) Special assessments.
 - (3) Impact and/or drainage fees.
 - (4) Investment income.
 - (5) Any other revenue.

- (d) The Districts' proposed budget shall be submitted to the Town Chair for review and submittal to the Town Board for approval, at least thirty (30) days prior to the adoption of the Town's annual budget.

SEC. 9-2-9 ILLICIT DISCHARGES AND CONNECTIONS

- (a) **DEFINITIONS.** The following definitions shall be applicable in this Section:
 - (1) **ILLICIT CONNECTION:** Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter a Municipal Separate Storm Sewer and any connections to a Municipal Separate Storm Sewer from indoor drains and sinks.
 - (2) **ILLICIT DISCHARGE:** Any discharge to a Municipal Separate Storm Sewer or the Waters of the State that is not composed entirely of storm water, unless exempted below. Any such Illicit Discharge is a public nuisance.
 - (3) **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** A conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, retention or detention basins, constructed channels or storm drains, which meets the following criteria:
 - (a) Owned or operated by a municipality.
 - (b) Designed or used for collecting or conveying storm water.
 - (c) Which is not a combined sewer conveying both sanitary or storm water.
 - (d) Which is not part of a publicly owned wastewater treatment works which provides secondary or more stringent treatment.
 - (4) **PERSON:** An owner, operator, individual, association, organization, partnership, firm, corporation municipality, interstate agency, state agency, federal agency, or other entity recognized by law and acting as either the owner or as the owner's agent.
 - (5) **STORM WATER:** Storm water runoff, snow or ice melt runoff, and surface runoff and drainage.
 - (6) **WPDES:** Wisconsin pollutant discharge elimination system.
 - (7) **WATERS OF THE STATE:** Those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.
- (b) **DISCHARGES PROHIBITED.** No person shall cause an Illicit Discharge to a Municipal Separate Storm Sewer or the Waters of the State.
- (c) **CONNECTIONS PROHIBITED.** The construction, use, maintenance or continued existence of an Illicit Connection to a Municipal Separate Storm Sewer is prohibited. This prohibition expressly includes, without limitation, an Illicit Connection made prior to the adoption of this ordinance, regardless of whether

the connection was permissible under law or practice applicable or prevailing at the time of connection.

(d) EXEMPTIONS. The following non-storm water discharges or flows are not considered Illicit Discharges:

- (1) Discharges authorized by a WPDES permit.
- (2) Discharges resulting from firefighting activities.
- (3) Water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, roof drains, sump pumps, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool water and street wash water.

(e) ENFORCEMENT.

(1) Any person violating any provision of this Section shall, upon conviction of such violation, be subject to the general penalties set forth in Section 1-1-6 of the Town's Code of Ordinances.

(2) Whenever the District or Town finds a person has violated a prohibition or failed to meet a requirement of this Section, the District or Town may order compliance by written notice of violation to the responsible person. Enforcement action under this subsection may be in addition to prosecution under subsection (1) above. Such notice may require without limitation:

- a. The elimination of an Illicit Connection or Discharge;
- b. That violating discharges, practices, or operations shall cease and desist;
- c. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- d. In the event the person fails to eliminate an Illicit Connection or Discharge, fails to cease and desist in discharge, practices or operations in violation of this Section or fails to abate or remediate the storm water pollution or contamination hazards, that person may be subject to forfeiture of not less than \$50.00 nor more than \$1,000.00 for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(3) In addition to enforcement under subsection (1) or (2) above, the District or Town may abate the public nuisance created by the Illicit Connection or Discharge in accordance with Title 11, Chapter 6 of the Town's Code of Ordinances.

SEC. 9-2-10 POST CONSTRUCTION STORM WATER MANAGEMENT ORDINANCE

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(a) **Authority.**

- (1) This ordinance is adopted by the Town Board under the authority granted by Secs. 60.627 and 61.354, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under Secs. 60.62 and 61.35, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in Secs. 60.627 and 61.354, Wis. Stats., Secs. 60.62 and 61.35, Wis. Stats., apply to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Town Board hereby designates the Town Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - a. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under s. 281.16 and 283.33, Wis. Stats.
 - b. Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Sec. NR 151.004, Wis. Adm. Code.

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

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

(c) **Purpose and Intent.**

(1) **Purpose.** The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

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

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

(d) **Applicability and Jurisdiction.**

(1) **Applicability.**

- a. Where not otherwise limited by law, this ordinance applies after final stabilization to a site of land disturbing construction activity that had one or more acres of land disturbing construction activity, unless the site is otherwise exempt under paragraph b.
- b. A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.
 1. A redevelopment post-construction site with no increase in exposed parking lots or roads.
 2. A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.

3. Nonpoint discharges from agricultural facilities and practices.
 4. Nonpoint discharges from silviculture activities.
 5. Routine maintenance for project sites under 1 acre of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 6. 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.
- c. Notwithstanding the applicability requirements in paragraph a, this ordinance applies to post–construction sites of any size that, in the opinion of the Town Engineer, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (2) **Jurisdiction.** This ordinance applies to post construction sites within the boundaries and jurisdiction of the Town of Caledonia, as well as, to the extent applicable, the extraterritorial division of land subject to an ordinance enacted pursuant to Sec. 236.45(2) and (3) Wis. Stats. and all lands located within the extraterritorial plat approval jurisdiction of the Town of Caledonia, even if plat approval is not involved.
- (3) **Exclusions.** This ordinance is not applicable to activities conducted by a state agency, as defined under Sec. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Sec. 281.33 (2), Wis. Stats.

Note to Users: The Wisconsin Department of Transportation (WisDOT) has entered into a memorandum of understanding with the Wisconsin Department of Natural Resources that satisfies Sec. 281.33 (2), Wis. Stats., such that activities directed and supervised by WisDOT are exempt from this ordinance.

- (e) **Definitions.**
- (1) **“Administering authority”** means a governmental employee, or a regional planning commission empowered under Secs. 60.627 and 61.354, Wis. Stats., that is designated by the Town Board to administer this ordinance.
 - (2) **“Agricultural facilities and practices”** has the meaning given in Sec. 281.16, Wis. Stats.
 - (3) **“Average annual rainfall”** means a calendar year of precipitation, excluding snow, which is considered typical.
 - (4) **“Best management practice”** or **“BMP”** means structural or non–structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
 - (5) **“Business day”** means a day the office of the Town Engineer is routinely and customarily open for business.

- (6) **“Cease and desist order”** means a court–issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (7) **“Combined sewer system”** means a system for conveying both sanitary sewage and storm water runoff.
- (8) **“Connected imperviousness”** means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (9) **“Design storm”** means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (10) **“Development”** means residential, commercial, industrial or institutional land uses and associated roads.
- (11) **“Division of land”** means the creation from one parcel of two or more parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.
- (12) **“Effective infiltration area”** means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (13) **“Erosion”** means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.
- (14) **“Exceptional resource waters”** means waters listed in Sec. NR 102.11, Wis. Adm. Code.
- (15) **“Extraterritorial”** means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.
- (16) **“Final stabilization”** means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (17) **“Financial guarantee”** means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Town Engineer by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (18) **“Governing body”** means the town board of supervisors.
- (19) **“Impervious surface”** means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.
- (20) **“In–fill area”** means an undeveloped area of land located within existing development.
- (21) **“Infiltration”** means the entry of precipitation or runoff into or through the soil.

- (22) **“Infiltration system”** means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (23) **“Karst feature”** means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
- (24) **“Land disturbing construction activity”** means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (25) **“Maintenance agreement”** means a legal document that provides for long-term maintenance of storm water management practices.
- (26) **“MEP”** or **“maximum extent practicable”** means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- (27) **“New development”** means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (28) **“Off-site”** means located outside the property boundary described in the permit application.
- (29) **“On-site”** means located within the property boundary described in the permit application.
- (30) **“Ordinary high-water mark”** has the meaning given in Sec. NR 115.03(6), Wis. Adm. Code.
- (31) **“Outstanding resource waters”** means waters listed in Sec. NR 102.10, Wis. Adm. Code.
- (32) **“Percent fines”** means the percentage of a given sample of soil, which passes through a # 200 sieve.

Note to Users: Percent fines can be determined using the “American Society for Testing and Materials”, volume 04.02, “Test Method C117-95 Standard Test Method for Materials Finer than 75- um (No.200) Sieve in Material Aggregates by Washing”. Copies can be obtained by contacting the American society for testing and materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or on line at: [“http://www.astm.org/”](http://www.astm.org/).

- (33) **“Performance standard”** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (34) **“Permit”** means a written authorization made by the Town Engineer to the applicant to conduct land disturbing construction activity or to discharge post–construction runoff to waters of the state.
- (35) **“Permit administration fee”** means a sum of money paid to the Town Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (36) **“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.
- (37) **“Pollutant”** has the meaning given in Sec. 283.01(13), Wis. Stats.
- (38) **“Pollution”** has the meaning given in Sec. 281.01(10), Wis. Stats.
- (39) **“Post–construction site”** means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (40) **“Pre–development condition”** means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
- (41) **“Preventive action limit”** has the meaning given in Sec. NR 140.05(17), Wis. Adm. Code.
- (42) **“Redevelopment”** means areas where development is replacing older development.
- (43) **“Responsible party”** means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post–construction storm water BMPS.
- (44) **“Runoff”** means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (45) **“Separate storm sewer”** means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - a. Is designed or used for collecting water or conveying runoff.
 - b. Is not part of a combined sewer system.
 - c. Is not draining to a storm water treatment device or system.
 - d. Discharges directly or indirectly to waters of the state.
- (46) **“Site”** means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (47) **“Stop work order”** means an order issued by the Town Engineer which requires that all construction activity on the site be stopped.
- (48) **“Storm water management plan”** means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has

under gone final stabilization following completion of the construction activity.

- (49) “**Storm water management system plan**” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
 - (50) “**Technical standard**” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
 - (51) “**Top of the channel**” means an edge, or point on the landscape, landward from the ordinary high–water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high–water mark, the top of the channel is the ordinary high–water mark.
 - (52) “**TR–55**” means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.
 - (53) “**Type II distribution**” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
 - (54) “**Waters of the state**” has the meaning given in Sec. 281.01 (18), Wis. Stats.
- (f) **Technical Standards.** The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of storm water practices needed to meet the water quality standards of this ordinance:
- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
 - (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Town Engineer.
 - (3) In this ordinance, the following year and location has been selected as average annual rainfall; Milwaukee, 1969 (Mar. 28–Dec. 6).
- (g) **Performance Standards.**
- (1) **Responsible Party.** The responsible party shall implement a post–construction storm water management plan that incorporates the requirements of this section.
 - (2) **Plan.** A written storm water management plan in accordance with Section (i) shall be developed and implemented for each post–construction site.
 - (3) **Requirements.** The plan required under sub. (2) shall include the following:

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

Note to Users: Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids.

- b. **Peak Discharge.**
1. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions, utilizing the 2-year, 24-hour design storm as made applicable to the post-construction site. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of "hydrologic soil

group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

Table 1 – Maximum Pre-Development Runoff Curve Numbers for Cropland Areas				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

Table 1 – Maximum Pre-Development Runoff Curve Numbers for Cropland Areas Hydrologic Soil Group A B C D
Runoff Curve Number 56 70 79 83

Note to Users: The Curve numbers in Table 1 represent mid-range values for soils under a good hydrologic condition where conservation practices are used and are selected to be protective of the resource waters.

2. This subsection of the ordinance does not apply to any of the following:
 - i. A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the 2-year, 24-hour storm event.

Note to Users: Hydraulic models such as HEC-RAS or another methodology may be used to determine the change in surface water elevations.

- ii. A redevelopment post-construction site.
 - iii. An in-fill development area less than 5 acres.
3. In addition to the above standards, BMPs shall be employed to control the post-development peak flow rate for 5-, 10-, 25-, 50-, and 100-year, 24-hour storm events in accord with the design criteria utilized for detention facilities in Section 9-2-7.
 - c. **Infiltration.** BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subds. 5. through 8.
 1. For residential developments one of the following shall be met:
 - i. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - ii. Infiltrate 25% of the post-development runoff from the 2 year –24 hour design storm with a type II distribution. Separate curve numbers for pervious

and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

2. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:
 - i. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - ii. Infiltrate 10% of the runoff from the 2 year – 24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
3. Pre-development condition shall be the same as in par. (g)(3)b.

Note to Users: A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology may be used.

4. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 8. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

Note to Users: To achieve the infiltration requirement for the parking lots or roads, maximum extent practicable should not be interpreted to require significant topography changes that create an excessive financial burden. To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

5. **Exclusions.** The runoff from the following areas are prohibited from meeting the requirements of this paragraph:
- i. Areas associated with tier 1 industrial facilities identified in Sec. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 - ii. Storage and loading areas of tier 2 industrial facilities identified in Sec. NR 216.21(2)(b), Wis. Adm. Code.

Note to Users: Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.

- iii. Fueling and vehicle maintenance areas.
- iv. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
- v. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 5.v. does not prohibit infiltration of roof runoff.
- vi. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
- vii. Areas within 400 feet of a community water system well as specified in Sec. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in Sec. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
- viii. Areas where contaminants of concern, as defined in Sec. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
- ix. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10 percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subd. 5.i. does not prohibit infiltration of roof runoff.

Note to Users: The areas listed in subd. 5 are prohibited from infiltrating runoff due to the potential for groundwater contamination.

6. **Exemptions.** The following are not required to meet the requirements of this paragraph:
 - i. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - ii. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 - iii. Redevelopment post–construction sites.
 - iv. In–fill development areas less than 1 acre.
 - v. Infiltration areas during periods when the soil on the site is frozen.
 - vi. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
 7. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.
 8.
 - a. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
 - b. Notwithstanding subd. par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- d. **Protective Areas.**
1. **“Protective area”** means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
 - i. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special

- natural resource interest as specified in Sec. NR 103.04, 75 feet.
- ii. 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.
 - iii. For lakes, 50 feet.
 - iv. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Sec. NR 103.08(1m). 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.
 - v. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 - vi. In subd. 1.i, iv, and v, determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Sec. NR 103.03.
 - vii. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
2. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
 3. The following requirements shall be met:
 - i. 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.
 - ii. Where land disturbing construction activity occurs within a protective area, and where no impervious

surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

Note to Users: It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. 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".

- iii. Best management practices such as filter strips, swales, or wet detention basins that are designed to control pollutants from non-point sources may be located in the protective area.

Note to Users: Other regulations, such as ch. 30, Wis. Stats., and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval process may apply in the protective area.

4. This paragraph does not apply to:
 - i. Redevelopment post-construction sites.
 - ii. In-fill development areas less than 1 acre.
 - iii. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - iv. Structures constructed in accordance with Sec. 59.692(1v), Wis. Stats.
 - v. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note to Users: A vegetated protective area to filter runoff pollutants from post-construction sites described in subd. 4.v. is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.

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

Note to Users: 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.

f. **Swale Treatment for Transportation Facilities.**

1. **Applicability.** Except as provided in subd. 2., transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
 - i. 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.

Note to Users: It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.

- ii. 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.

Note to Users: 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. However, a limited amount of structural measures such as curb and gutter may be allowed as necessary to account for other concerns such as human safety or resource protection.

2. **Exemptions.** The Town Engineer may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 - i. An outstanding resource water.
 - ii. An exceptional resource water.
 - iii. Waters listed in Sec. 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.
 - iv. Waters where targeted performance standards are developed under Sec. NR 151.004, Wis. Adm. Code, to meet water quality standards.

Note to Users: The Department of Natural Resource's regional storm water staff can determine if additional BMPs, beyond a water quality swale, are needed under this paragraph.

- (4) **General Considerations for On-Site and Off-Site Storm Water Management Measures.** The following considerations shall be observed in managing runoff:
- a. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
 - b. Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (5) **Location and Regional Treatment Option.**
- a. The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
 - b. Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.
 - c. Except as allowed under par. d, post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
 - d. Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this ordinance if:
 1. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and
 2. The BMP is designed to provide runoff treatment from future upland development.
 - e. Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
 1. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
 2. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

Note to Users: This allows the location of BMPs in navigable surface waters where necessary to augment management practices upstream of the navigable surface water to meet the performance standards.

- f. The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.

Note to Users: This section does not supersede any other applicable federal, state or local regulation such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

- g. The Town Engineer may approve off-site management measures provided that all of the following conditions are met:

- 1. The Town Engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Town of Caledonia and that contains management requirements consistent with the purpose and intent of this ordinance.

- 2. The off-site facility meets all of the following conditions:

- i. The facility is in place.
- ii. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
- iii. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

- h. Where a regional treatment option exists such that the Town Engineer exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined by the Town Board, from time to time. In recommending the fee for post-construction runoff, the Town Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

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

(h) **Permitting Requirements, Procedures and Fees.**

- (1) **Permit Required.** No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Town Engineer prior to commencing the proposed activity.
- (2) **Permit Application and Fees.** Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Town Engineer a permit application made on a form provided by the Town Engineer for that purpose.

- a. Unless otherwise excepted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.
 - b. The storm water management plan shall be prepared to meet the requirements of Sections (g) and (i), the maintenance agreement shall be prepared to meet the requirements of Section (j), the financial guarantee shall meet the requirements of Section (k), and fees shall be those established by the Town Board as set forth in Section (l).
- (3) **Review and Approval of Permit Application.** The Town Engineer shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
- a. Within thirty (30) business days of the receipt of a complete permit application, including all items as required by sub. (2), the Town Engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.
 - b. If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Town Engineer shall issue the permit.
 - c. If the storm water permit application, plan or maintenance agreement is disapproved, the Town Engineer shall detail in writing the reasons for disapproval.
 - d. The Town Engineer may request additional information from the applicant. If additional information is submitted, the Town Engineer shall have ten (10) business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - e. Failure by the Town Engineer to inform the permit applicant of a decision within thirty (30) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **Permit Requirements.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Town Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Town Engineer to suspend or revoke this permit may be appealed in accordance with Section (h).
- a. Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.

- b. The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
- c. The responsible party shall notify the Town Engineer at least two (2) business days before commencing any work in conjunction with the storm water management plan, and within fourteen (14) business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the Town Engineer so that practice installations can be inspected during construction.
- e. Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Town Engineer or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Town Engineer or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- f. The responsible party shall notify the Town Engineer of any modifications it intends to make to an approved storm water management plan. The Town Engineer may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
- g. The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Town Board, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- h. The responsible party authorizes the Town Engineer to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under Section (k).
- i. If so directed by the Town Engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
- j. The responsible party shall permit property access to the Town Engineer or his/her designee for the purpose of inspecting the

property for compliance with the approved storm water management plan and this permit.

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

(5) **Permit Conditions.** Permits issued under this subsection may include conditions established by Town Engineer in addition to the requirements needed to meet the performance standards in Section (g) or a financial guarantee as provided for in Section (k).

(6) **Permit Duration.** Permits issued under this section shall be valid from the date of issuance through the date the Town Engineer notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)d.

(i) **Storm Water Management Plan.**

(1) **Plan Requirements.** The storm water management plan required under Section (h)(2) shall contain at a minimum the following information:

- a. Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
- b. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- c. Pre-development site conditions, including:
 - 1. One or more site maps at a scale of not less than 1 inch equals 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 at a scale not to exceed 100 feet per inch; 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 s. NR 811.16, Wis. Adm. 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-development site conditions, including:
1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 3. One or more site maps at a scale of not less than 1 inch equals 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 at a scale not to exceed 100 feet; 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 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. 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 (g).
 - f. A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - g. Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - h. Other information requested in writing by the Town Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
 - i. All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (2) **Alternate Requirements.** The Town Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under Section (g)(5).
- (j) **Maintenance Agreement.**
- (1) **Maintenance Agreement Required.**

The maintenance agreement required under Section (h)(2) for storm water management practices shall be an agreement between the Town and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
 - (2) **Agreement Provisions.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Section (i)f:
 - a. Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - b. A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under Section (h)(2).
 - c. Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under Section (h)(2).

- d. Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. b.
- e. Authorization for the Town Engineer to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- f. A requirement on the Town Engineer to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions Register, September, 2002, No. 561 required to bring the storm water management practice into proper working condition.
- g. Agreement that the party designated under par. c., as responsible for long term maintenance of the storm water management practices, shall be notified by the Town Engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Town Engineer.
- h. Authorization of the Town Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under par. c. does not make the required corrections in the specified time period. The Town Engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(k) **Financial Guarantee.**

- (1) **Establishment of the Guarantee.** The Town Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Town Engineer. The financial guarantee shall be in an amount determined by the Town Engineer to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Town Engineer the authorization to use the funds to complete the storm water management practices or required maintenance if the responsible party defaults or does not properly implement the approved storm water management plan, or perform the maintenance required under the approved maintenance agreement, upon written notice to the responsible party by the administering authority that the requirements of this ordinance have not been met.
- (2) **Conditions for Release.** Conditions for the release of the financial guarantee are as follows:
 - a. The Town Engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the Town Engineer to complete installation of practices, upon

submission of "as built plans" by a licensed professional engineer. The Town Engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

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

(l) **Fee Schedule.** The fees referred to in other sections of this ordinance shall be established by the Town Engineer and may from time to time be modified by resolution. A schedule of the fees established by the Town Engineer shall be available for review in the Town Engineer's office.

(m) **Enforcement.**

- (1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the requirements of this ordinance shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The Town Engineer shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the Town Engineer under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other requirements of this ordinance. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Town Engineer in the notice.
- (4) If the violations of this ordinance or a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Town Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Town Engineer plus interest and legal costs shall be billed to the responsible party.
- (5) The Town Engineer is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the municipal attorney to obtain a cease and desist order in any court with jurisdiction.
- (6) The Town Engineer may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Town Engineer or by a court with jurisdiction.

- (8) The Town Engineer 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 municipal attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) Any person, firm, association, entity, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$25.00 or more than \$500.00 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

Note to Users: Injunctive orders are authorized pursuant to Sec. 59.69(11), 61.35, or 62.23(8), Wis. Stats., for counties, villages and towns with village powers, and cities respectively.

- (11) When the Town Engineer determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or required maintenance plan, or has failed to comply with schedules set forth in said storm water management plan, the Town Engineer or a party designated by the Town Engineer 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 Town Engineer shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to Section (k) 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.
- (n) **Appeals.**
Review of any determination made under the ordinance shall be pursued in accordance with Title 4, Chapter 1 of the Town's Code of Ordinances.
- (o) **Severability.**
If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.
- (p) **Effective Date.**
This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Town Board of the Town of Caledonia on the 20th day of September, 2005.

9-2-11 PONDS.

- (a) **Permit Required.** No person shall construct or make improvements to any pond located within the Town of Caledonia without first obtaining a permit from the Town Engineer. Except as set forth below, these provisions apply to all ponds including, but not limited to, those ponds utilized for drainage, recreation, aesthetics, sediment control, and fish management.

- (b) **Exceptions.** The following ponds are excluded from the provisions of this ordinance: Ponds with a depth of less than 24 inches, ponds with a diameter less than 16 feet or an area less than 200 square feet, storm water drainage ponds created by or for a town drainage utility district, and ponds which have been previously reviewed and approved as part of an erosion control plan. Existing ponds are also excluded from the provisions of this ordinance, but any enlargement, dredgings or modifications to such ponds makes them subject to this section.

- (c) **Site Plan Required.** Before a permit may be issued, the applicant shall provide the Town with a detailed site plan of the proposed pond excavation showing cross-section, depth, area and location of the pond as well as addressing disposition and storage of spoils from the excavation. The plan shall contain measures to protect against overflow and shall address drainage into and surrounding the pond area. The plan shall detail the flow of drainage in the event of overflow and demonstrate that adjacent properties will be adequately protected in the event of overflow. A restoration plan for the excavation is also required. Additional information shall be supplied to the Town, as requested by the Town Engineer.

- (d) **Standards For Construction.**
 - (1) **Technical Requirements.** Side slopes shall not exceed a 4:1 ratio. The boundaries of the pond, as shown on the approved site plan, shall be set back a minimum of thirty (30) feet from all property lines. The Town Engineer may require safety ledges, where appropriate, in accordance with the specifications set forth below. In addition, ponds shall be constructed in conformance with the standards of the Soil

Conservation Service Technical Guide and, where applicable, the Wet Detention Basin of the Wisconsin Department of Natural Resources Conservation Practice Standard, copies of which are available through the Town Engineer, as well as other applicable provisions of Chapters NR 151 (Runoff Management) and NR 333 (Dam Design and Construction) of the Wisconsin Administrative Code. The Town Engineer may require the applicant to submit an engineering analysis certifying the structural adequacy of the proposed pond.

- (2) Excavated Material. To the maximum extent possible, all excavated material shall remain on-site and shall be integrated into the restoration of the pond area.
- (3) Rezoning. If the excavated material from the project site is sold, given away, or is otherwise removed from the site in a manner in which the principal use appears to be soil removal, and pond construction appears to be a secondary result, the parcel shall be rezoned to M-4 quarrying district and a mineral extraction conditional use permit shall be obtained prior to any excavation or grading on the parcel.
- (4) Conditions to Permit. The Town Board may attach conditions to the issuance of a pond permit to address such things (without limitation) as maintenance, weed control, depth of pond, landscaping and aesthetics, and measures to secure the pond to avoid personal injury to trespassers. Temporary seeding may be required by the Town Engineer for partially completed projects. Other conditions appropriate to the area under consideration may be added to the permit by the Town Engineer.
- (5) Additional Permits. Before proceeding with excavation, the applicant, in addition to obtaining a permit from the Town, must secure all necessary permits from pertinent county, state and federal government agencies.
- (6) Permit Fee. At the time of application, the applicant shall submit a permit fee of \$100.00 for a proposed new or reconstructed pond, and a permit fee of \$50.00 for maintenance or dredging of an existing pond. In addition, the applicant shall reimburse the Town for engineering, planning, legal and administrative expenses incurred in processing, reviewing, revising and approving the permit and site plan.

- (e) **Modifications Or Waivers.** An applicant who seeks modifications or waivers of any of the above permit requirements must obtain Town Board approval in accordance with the procedure set forth in Section 4-1-13 of the Town's Code of Ordinances.