

STORM WATER MANAGEMENT ORDINANCE

- 14.01 AUTHORITY
- 14.02 FINDINGS OF FACT
- 14.03 PURPOSE AND INTENT
- 14.04 APPLICABILITY AND JURISDICTION
- 14.05 DEFINITIONS
- 14.06 STORM WATER MANAGEMENT STANDARDS
- 14.07 PERMITTING REQUIREMENT, PROCEDURES AND FEES
- 14.08 STORM WATER MANAGEMENT PLANS
- 14.09 MAINTENANCE AGREEMENT
- 14.10 ENFORCEMENT AND PENALTIES
- 14.11 APPEALS
- 14.12 SEVERABILITY
- 14.13 EFFECTIVE DATE

14.01 AUTHORITY

- (1) This ordinance is adopted by the Village of Brown Deer under the authority granted by ss. 61.354 and 62.234 Wis. Stats. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under ss. 61.35 and 62.23 Wis. Stats. except as specifically provided for in ss. 61.354 and 62.234 Wis. Stats.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Village of Brown Deer.
- (3) The Village of Brown Deer hereby designates the Village Manager or his/her designee to have the administrating authority 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 ss. 281.33 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in the rules followed by the Wisconsin Department of Natural Resources under NR 151.004, Wis. Adm. Code.

14.02 FINDINGS OF FACT

The Village of Brown Deer finds that uncontrolled post-construction storm water 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 storm water runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, and diminishing stream base flow;
- (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 loads;

- (5) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities;
- (6) Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes;
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding;

14.03 PURPOSE AND INTENT

- (1) **PURPOSE.** The purpose of this ordinance is to establish long term post-construction storm water runoff management requirements that will regulate water pollution, diminish the threats to public health, safety, welfare, and aquatic environment. Specific purposes are to:
 - (a) Further the maintenance of safe and healthful conditions,
 - (b) Regulate and attempt to reduce the adverse effects of storm water, soil erosion, and water pollution, undue channel erosion, increases in the scouring and transportation of particulate matter, conditions that endanger downstream property and to protect spawning grounds and fish and aquatic life.
 - (c) Regulate drainage facilities and receiving water bodies for the purpose of maintaining capacity for the safe conveyance of both stormwater run-off and non-stormwater discharges.
- (2) **INTENT.** It is the intent of the Village of Brown Deer 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 Village 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 a watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, measures 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 provisions in ss. NR 151.12(90) and 151.24(8), Wis. Adm. Code, for regional storm water management measures and have been approved by the Village, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

14.04 APPLICABILITY AND JURISDICTION

- (1) **APPLICABILITY.** This ordinance applies to land development activities that meet the criteria specified in this section. The ordinance also applies to land development activities that are smaller than the minimum criteria if such activities are part of a larger common plan of development that meets the following criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.
 - (a) residential land development with a gross aggregate area of 1 acre or more;
 - (b) residential land development with a gross aggregate area less than 1 acre, if there are at least 0.25 acres of impervious surfaces;
 - (c) land development, other than a residential land development, with a gross aggregate area of 0.5 acres or more;
 - (d) land disturbance which in the opinion of the Administering Authority is likely to result in storm water runoff that causes undue channel erosion, increases water pollution or which endangers downstream property or public safety.
- (2) **EXEMPTIONS.** This ordinance does not apply to the following activities:
 - (a) Land development activities conducted or contracted for by any state agency, as defined

- under s.227.01 (1) Wis. Stats., but also including the office of district attorney.
- (b) Storm water discharges from projects administered by the Department of Transportation, regulated by Ch. TRANS 401, Wis. Admin. Code and subject to the DOT and DNR cooperative agreement.
 - (c) Minor highway reconstruction that is limited to no more than 1.5 miles in continuous or aggregate total length of realignment, does not exceed 100 feet in width of roadbed widening and that after reconstruction does not lie within a buffer area as defined in this ordinance.
 - (d) A redevelopment site with no increase in the exposed impervious surface area, including reconditioning or resurfacing of a highway, is exempt from meeting 14.06(1) Storm Water Discharge Quantity standards only.
 - (e) A development site with less than 10% connected imperviousness based on complete development of the site, provided the cumulative area of all parking lots and rooftops is less than one acre.
- (3) JURISDICTION. This ordinance applies to land development activities within the boundaries of the Village of Brown Deer.
- (4) ADOPTION OF MMSD CHAPTER 13 BY REFERENCE. Chapter 13 of the Milwaukee Metropolitan Sewerage District (MMSD) Rules on Surface Water and Storm Water Runoff Management (dated January 25, 2002) are adopted by reference and are made a part of this chapter as if fully set forth herein. A copy of Chapter 13 shall be on file and open for inspection in the office of the village clerk and the community services department.”

14.05 DEFFINITIONS

- (1) “Administering Authority” means the governmental employee empowered under Chapters. 61.354 and 62.234 Wis. Stats., designated by the Village of Brown Deer to administer this ordinance.
- (2) “Agricultural land use” means planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries, but does not include the construction of buildings or facilities used for agriculture.
- (3) “Applicant” means any landowner, land user(s), their agent, or contractor responsible for submitting and carry out the requirements of this ordinance. Applicant shall also mean any subsequent landowner to whom this ordinance applies.
- (4) “Best Management Practice” or “BMP” means a structural or non-structural practice, technique or measure, facility, system of practices or device which is determined to be an effective means of preventing or reducing runoff pollutants to waters of the State, to a level compatible with the performance standards of this ordinance.
- (5) “Business day” means a day which offices of the Village of Brown Deer are open for business.
- (6) “Cease and desist order” means a court issued order to halt land developing activity that is being conducted without the required permit.
- (7) “Common plan of development” means all lands included within the boundary of a plat of survey, certified survey map or subdivision plat created for the purpose of development where multiple separate and distinct land developing activities may take place at different times and on different schedules.
- (8) “Connected imperviousness” means an impervious surface that directs runoff to a separate storm sewer or water of the State via an impervious flow path.

- (9) "Design rainfall event" means a discrete rainstorm characterized by a specific duration, rainfall intensity, return frequency.
- (10) "Development" means any improvements to a parcel or parcels of land that would increase the storm water runoff or adversely effect the quality of storm water runoff.
- (11) "Discharge volume" means a discrete rainstorm characterized by a specific duration, rainfall intensity, return frequency.
- (12) "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
- (13) "Exceptional resource waters" means waters listed in ss. NR102.11, Wis. Adm. Code.
- (14) "Existing land use condition" means the condition of the proposed development site and the adjacent properties that are present at the time of the storm water permit application. This term applies only for the purpose of properly sizing the storm water conveyance system in accordance with the requirements of this ordinance, Section 14.06 (1)(b), Village of Brown Deer Municipal Code.
- (15) "Fee-in-lieu" means a payment of money to the Village of Brown Deer in place of meeting all or part of the storm water performance standards required by this ordinance.
- (16) "Final stabilization" means that all land disturbing construction activities at the permitted development site have been completed and that a uniform 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 that employ equivalent permanent stabilization measures.
- (17) "Future proposed land use condition" means any proposed land alterations or disturbances including but not limited to removal of vegetative cover, excavating, filling/grading, construction of buildings, roads, parking lots, paved storage areas and similar facilities. Also see "Post-development land use condition".
- (18) "Gross aggregate area" means the total area, in acres, of all land located within the property boundary containing the land development activity.
- (19) "Groundwater enforcement standard" means a numerical value expressing the concentration of a substance in groundwater, which is, adopted under Chapter. 160.07 Wis. Stats., and s. NR 140.10 or s. 160.09 Wis. Stats, and s. NR 140.12.
- (20) "Groundwater preventive action limit" means a numerical value expressing the concentration of a substance in groundwater that is adopted under s. 160.15 Wis. Stats., and s. NR 140.12 or 140.20.
- (21) "Governing body" means the Brown Deer Village Board.
- (22) "Hydrologic soil group" means a group of soils having similar runoff potential under the same storm and cover conditions. Major hydrologic soil groups are group A for sand, loamy sand or sandy loam; group B for silt or loam; group C for sandy clay loam; group D for clay loam, silty clay loam, sandy clay, silty clay or clay.
- (23) "Impervious surface" means a surface that does not allow infiltration during precipitation events. Rooftops, sidewalks, parking lots, and street surfaces are examples of areas that are typically impervious.
- (24) "In-fill area" means an undeveloped area of land located within existing development.
- (25) "Infiltration" means the process by which rain or surface runoff penetrates into the underlying soil.

- (26) “Land development activity” means any activity that changes the volume or peak flow discharge rate of storm water runoff from the land surface. This term does not include agricultural cropping activities.
- (27) “Maintenance Agreement” means a legal document that is filed with the County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of storm water management measures.
- (28) “Natural wetlands” means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include existing, mitigation and restored wetlands.
- (29) “Non-storm water discharge” means a discharge to the storm sewer system created by some process other than the runoff from precipitation.
- (30) “Nonstructural measure” means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants, in storm water that does not require the design or installation of fixed storm water management facilities.
- (31) “Off-site” means lands located outside the property boundary described in the permit application for land development activity.
- (32) “On-site” means lands located within the property boundary described in the permit application for land development activity.
- (33) “Outstanding resource waters” means waters listed in ss. NR 102.10, Wis. Adm. Code.
- (34) “Peak flow discharge rate” means the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.
- (35) “Performance security” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantee s submitted to the Village of Brown Deer by the permit holder to assure that requirements of the ordinance are carried out in compliance with the Storm Water Management Plan.
- (36) “Permit” means a written authorization made by the Village of Brown Deer to the applicant to conduct land development activities or to discharge post-construction runoff to waters of the State.
- (37) “Permit administration fee” means a sum of money paid to the Village of Brown Deer by the permit applicant for the purpose of recouping the expenses incurred by the Village in administering the permit.
- (38) “Pervious surface” means an area that infiltrates rainfall during a large portion of the design rainfall event. Lawns, fields and woodlands are examples of pervious surfaces.
- (39) “Pollutant” has the meaning in Chapter. 283.01(13), Stats.
- (40) “Pollution” has the meaning in Chapter. 281.01(10), Stats.
- (41) “Post-construction storm water discharge” means any storm water discharged from a site following the completion of land disturbing construction activity and final site stabilization.
- (42) “Post-development land use condition” means the extent and distribution of land cover types, anticipated to occur under conditions of full development, that will influence precipitation runoff and infiltration. Also see "Future proposed land use condition".

- (43) “Pre-development land use condition” means land which has runoff characteristics equivalent to runoff Curve Numbers (CNs) of: 30, 58, 71, and 78 for Hydrologic Soil Groups A, B, C, and D, respectively. This term is used for the purpose of matching of pre - and post-development storm water peak flows and volumes as required by this ordinance. Chapter 14.06(1)(a) Village of Brown Deer Municipal Code, (see also existing land use condition).
- (44) “Pressurized Flow” is the condition that occurs when the pipe is filled and the water level in the enclosed system rises above the water level of the pipe, thereby creating a pressure head.
- (45) “Pre-treatment” means the treatment of storm water prior to its discharge to wetlands, infiltration practices or the primary storm water treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.
- (46) “Preventive action limit” has the meaning in ss. NR 140.05(17), Wis. Adm. Code.
- (47) “Public drainage system” means all facilities owned and operated by the Village of Brown Deer, Milwaukee County or the Wisconsin Department of Transportation for the purpose of collecting, conveying, storing, treating and properly disposing of storm water runoff.
- (48) “Reconditioning” has the meaning in Chapter. 84.013(1)(b), Stats.
- (49) “Reconstruction” has the meaning in Chapter. 84.013(1)(c), Stats.
- (50) “Redevelopment” means areas where development is replacing older development.
- (51) “Residential land development” means that which is created to house people, including the residential dwellings as well as all affected portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single or two family, multi-family, apartment, and trailer parks.
- (52) “Resurfacing” has the meaning in Chapter. 84.013(1)(d), Stats.
- (53) “Runoff” means storm water or precipitation including rain, snow or ice melt that moves on the land surface via sheet or channelized flow. Also see “Storm water runoff”.
- (54) “Runoff curve number” means a parameter that combines the effects of soils, watershed characteristics and land use to estimate the amount of runoff from land surfaces.
- (55) “Site restriction” means any physical characteristic that limits the use of a storm water BMP.
- (56) “Stop work order” means an order issued by the Village of Brown Deer that requires that all construction activity on the site be stopped.
- (57) “Storm water conveyance system” means any method employed to carry storm water runoff from a development to waters of the State. Examples of methods include streets, swales, channels, and storm sewers that are not part of a combined sewer system, and natural channels or streams.
- (58) “Storm Water Management Plan” means a document that identifies what actions will be taken to reduce storm water quantity and pollutant loads from the post-development land use condition to levels meeting the requirements of this ordinance.
- (59) “Storm water runoff” means that portion of precipitation that does not soak into the soil, and flows off the surface of the land and into the natural or artificial storm water conveyance system. Also see “Runoff”.

- (60) “Storm water management measure” means structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- (61) “Surcharging” is a condition in which the rate of runoff exceeds the capacity of a drainage system to carry the water away. It occurs when the water level rises above the top of the sewer pipe.
- (62) “Technical standard” means an established minimum criterion for planning, performance, design, operation or maintenance for a BMP.
- (63) “Top of the channel” means an edge, or point on the landscape that will contain the average annual runoff from the basin area draining to the channel and is normally identified by a change in slope or vegetation.
- (64) “TR-55” means the National Resources Conservation Service, Urban Hydrology for Small Watersheds, Technical Release 55, and version 2.10, National Resources Conservation Service, USDA NRCS Conservation Engineering Division dated July 1998.
- (65) “Transportation facility” means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail and also includes any other public work for transportation purposes such as harbor improvements under Chapter 85.095(1)(b), Stats. “Transportation facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Wisconsin Department of Commerce pursuant to ss. 101.1205, Stats.
- (66) “Waters of the State” means any channel, ditch, stream, lake, or other body of water determined to be under State of Wisconsin authority under Chapter. 142 Wis. Stats.
- (67) “Wetland functional value” means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education.
- (68) “WPDES” means Wisconsin Pollutant Discharge Elimination System.
- (69) “WPDES Storm water Permit” means a permit issued by the Wisconsin Department of Natural Resources under Chapter 283.33 Wis. Stats. that authorizes the point source discharge of storm water to waters of the state and is regulated by Ch. NR 216 (Storm Water Discharge Permit), Wis. Adm. Code.
- (70) "Village" or "the Village" means the Village of Brown Deer and its authorized personnel.

14.06 STORM WATER MANAGEMENT STANDARDS

- (1) **STORM WATER DISCHARGE QUANTITY.** Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of storm water discharged from the site as described in this ordinance. Infiltration of storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.
 - (a) On-site management practices shall be used to meet the following minimum performance standards. All developments in the Village shall not increase peak flow rates of storm water runoff from that which would have resulted from the same storm occurring over the site with the land in its pre-development (14.05) conditions for design rainfall events with recurrence intervals of two (2), ten (10) and one hundred (100) years.

- (b) All storm water conveyance systems within the proposed development receiving storm water runoff from the proposed development, shall be designed to completely contain peak storm flows as described in 14.06(1)(b)(i) and (ii) below. Calculations for determining peak flows for conveyance system sizing shall be based on the existing or future proposed land use conditions for off-site areas (which ever results in the highest peak flows), and the post-development land use conditions for the on-site areas.
 - (i) For open channel conveyance systems the peak flow from the 25-year, storm shall be completely contained within the channel bottom and banks.
 - (ii) For storm sewer pipes the peak flow from the 10-year storm shall be completely contained within the pipes with no surcharging or pressurized flow.
 - (c) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of 14.06(1)(a) and (b) shall be computed by procedures based on the principals and procedures approved by the Village of Brown Deer Municipal Code, the Standards and Specifications for Development Construction in the Village of Brown Deer, Wisconsin Construction Site Best Management Practice Handbook, Soil Conservation Service Technical Guide, Milwaukee County Land Conservation Guidelines and the Wisconsin DNR..
 - (d) More stringent discharge limits may be required at the discretion of the Village for reasons such as, but not limited to: insufficient downstream system capacity, potential erosion of stream channels, or impacts on flood stages.
 - (e) All discharges will be restricted to public drainage systems (including storm sewers and ditches) or to waters of the State. It shall be the responsibility of the applicant to obtain, from adjacent property owners, any easements or other necessary property interests concerning flowage of water from the proposed development onto private lands.
 - (f) Increases or decreases in the hydrology of natural wetlands shall be minimized to the extent practical. Where such changes are proposed, the impact of the proposal on wetland functional values shall be assessed using methods acceptable to the Village and Wisconsin DNR. Significant changes to wetland functional values shall be avoided as defined by Wis. Adm. Code NR 103.
- (2) **STORM WATER DISCHARGE QUALITY.** Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the quality of storm water discharged from the site. On-site management practices shall be used to meet the following minimum standard established for each development District: (management practices may be as set forth in the Wisconsin Storm Water Manual, Part 2, Technical Guidelines for Storm Water BMP's)
- (a) Storm water management measures shall be designed to remove on an average annual basis a minimum of 80% of the total suspended solids load from the proposed on-site development when compared to the proposed on-site development without storm water management measures.
 - (b) Storm water management measures for redevelopment shall be designed to remove on an average annual basis a minimum of 40% of the total suspended solids load from the proposed on-site redevelopment when compared to the proposed on-site redevelopment without storm water management measures.
 - (c) Discharge of urban storm water pollutants to natural wetlands shall have pre-treatment and vegetative buffers, unless otherwise exempted by the Village and Wisconsin DNR. Where pre-treatment meets the prescribed standards, the impacts of the proposal on wetland functional values shall be assessed using a method acceptable to the Village. Significant changes to wetland functional values due to storm water pollutant loads shall be avoided.

- (d) Storm water discharges shall have pre-treatment prior to infiltration, to prolong maintenance of the infiltration practice and to prevent discharge of storm water pollutants at concentrations that will exceed groundwater preventive action limits or enforcement standards established by the Department of Natural Resources in NR 140 Wis. Adm. Code. Storm water infiltration is prohibited under the following circumstances:
 - (i) **Storm water** is generated from highly contaminated source areas at manufacturing industrial sites;
 - (ii) **Storm water** is carried in a conveyance system that also carries contaminated, non-storm water discharges;
 - (iii) **Storm water** is generated from active construction sites. Land disturbing activities shall comply with Chapter V, Article 19 Construction Site Erosion Control of the Village Code.
 - (e) Storm water ponds and infiltration devices shall not be located closer to water supply wells than indicated below without first notifying the Village:
 - (i) 100 feet from a non-public water supply well;
 - (ii) 1,200 feet from a community water supply well;
 - (iii) the boundary of a recharge area to a well identified in a wellhead area protection plan.
 - (f) More or less stringent treatment limits may be required on a site-specific basis, at the discretion of the Village.
- (3) EXCEPTIONS. The Village may waive the minimum requirements for on-site storm water management measures established in 14.06(1) and (2) upon written request of the applicant, provided that at least one of the following conditions applies:
- (a) Alternative minimum requirements for on-site management of storm water discharges have been established in a Storm Water Management Plan that has been approved by the Village and that is required to be implemented by local ordinance.
 - (b) Provisions are made to manage storm water by an off-site facility. This requires that the off-site facility is in place, is designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site measures meeting the requirements of this ordinance, and has a legally obligated entity responsible for long-term operation and maintenance of the storm water measure.
 - (c) The Village finds that meeting the minimum on-site management requirements is not feasible due to site restrictions.
- (4) FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT MEASURES. Where the Village waives all or part of the minimum on-site storm water management requirements under 14.06(3)(c), or where the waiver is based on the provision of adequate storm water facilities provided by the Village downstream of the proposed development, or as provided for under 14.06(3)(b), the applicant shall be required to pay a fee in an amount determined in negotiation with the Village. In setting the fee for land development projects, the Village shall consider an equitable distribution of the cost of land, engineering design, construction, and maintenance.

14.07 PERMITTING REQUIREMENT & PROCEDURES AND FEES

- (1) PERMIT REQUIRED. No one may undertake a land development or redevelopment activity subject to this ordinance without receiving a permit from the Village prior to commencing the proposed activity.

- (2) PERMIT APPLICATION AND FEE. Unless specifically excluded by this ordinance, anyone desiring a permit shall submit to the Village a permit application.
- (a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered by the Village;
 - (i) a Storm Water Management Plan;
 - (ii) a Maintenance Agreement
 - (iii) any payment of a “Fee-in-lieu”, as provided for under 14.06(4);
 - (iv) a non-refundable permit administration fee;
 - (v) and any easements which may be required.
 - (b) The Storm Water Management Plan shall be prepared to meet the requirements of 14.08 of this ordinance, the Maintenance Agreement shall be prepared to meet the requirements of 14.09 of this ordinance.
 - (c) The applicant shall reimburse the Village for actual expenses incurred by the Village and/or its consultant to review the Storm Water Management Plan.
- (3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The Village 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 sixty (60) business days of the receipt of a complete permit application, including all documents as required by 14.07(2)(a), the Village shall inform the applicant whether the application, plan, Maintenance Agreement and easements are approved or disapproved. The Village shall base the decision on requirements set forth in Sections 14.06, 14.08, and 14.09 of this ordinance.
 - (b) If the storm water permit application, plan, Maintenance Agreements and easements are approved, the Village shall issue the permit.
 - (c) If the storm water permit application, plan, Maintenance Agreements or easements are disapproved, the applicant may revise the Storm Water Management Plan or agreement, or may appeal the decision to the board of appeals as provided for in Section 14.11 of this ordinance.
 - (d) If additional information is submitted, the Village shall have 30 business days from the date the additional information is received to inform the applicant that the application, plan, Maintenance Agreement and easements are either approved or disapproved.
 - (e) Failure by the Village to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed to mean disapproval of the submittal.
- (4) PRACTICE/MEASURE INSTALLATION AND MAINTENANCE PERFORMANCE SECURITY. The Village may, at its discretion, require the submittal of a performance security prior to issuance of the permit, in order to insure that the storm water measures are installed and maintained by the permit holder as required by the Storm Water Management Plan. The Village shall determine the amount of the performance security.

The performance security shall not to exceed the total estimated construction cost of the storm water management measures approved under the permit, plus 25%.

The amount of the maintenance performance security shall be determined by the Village and shall not exceed the maintenance costs estimated in the storm water plan for the period during which the permit holder has maintenance responsibility.

The performance security shall contain forfeiture provisions for failure to complete work specified in the Storm Water Management Plan. Conditions for the release of performance security are as follows:

- (a) The installation performance security shall be released in full only upon submission of “as built plans” and written certification by a registered professional engineer in the State of Wisconsin that the storm water measure has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The Village may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages.
 - (b) The maintenance performance security, minus any costs incurred by the Village to conduct required maintenance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity, via an approved Maintenance Agreement, or to the Village.
- (5) PERMIT CONDITIONS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Village may suspend or revoke a permit for violation of a permit condition, following written notification of the permittee. An action by the Village to suspend or revoke this permit may be appealed in accordance with Section 14.11 of this ordinance.
- (a) Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 - (b) The permit holder shall design, install, and maintain all structural and nonstructural storm water management measures in accordance with the approved Storm Water Management Plan, Maintenance Agreement, and this permit.
 - (c) The permit holder shall notify the Village at least two (2) business days before commencing any work in conjunction with the Storm Water Management Plan, and within five (5) business days upon completion of the storm water management measures. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the Village so that practice installations can be inspected during construction.
 - (d) Completed storm water management measures must pass a final inspection to determine if they are in accordance with the approved Storm Water Management Plan and ordinance. The Village, or other competent professionals identified by the Village, must make the inspection. The Village shall notify the permit holder in writing of any changes required in such measures to bring them into compliance with the conditions of this permit. The permit holder is further required to submit a certificate of completion, stating the completion of the permitted work in accordance with the plans, Village, State and Federal requirements. The certificate must be signed by the permit holder, the contractor and the designer engineer.
 - (e) The permit holder shall notify the Village of any significant modifications it intends to make to an approved Storm Water Management Plan. The Village may require that the proposed modifications be submitted for approval prior to incorporation into the Storm Water Management Plan and execution.
 - (f) The permit holder shall maintain all storm water management measures specified in the approved Storm Water Management Plan until the measures either become the responsibility of the Village or are transferred to subsequent private owners as specified in the approved Maintenance Agreement.
 - (g) The permit holder authorizes the Village to perform any work or operations necessary to bring storm water management measures into conformance with the approved Storm Water Management Plan. The permit holder consents to the Village placing these associated costs

incurred by the Village upon the tax roll as a special assessment against the property pursuant to law, or to charging such costs against the performance bond posted for the project.

- (h) If so directed by the Village, the permit holder shall repair, at the permit holders own expense, all damage to adjoining municipal facilities and drainage ways caused by storm water runoff, where such damage is caused by activities that are not in compliance with the approved Storm Water Management Plan and this permit.
 - (i) The permit holder shall permit property access to the Village for the purpose of inspecting the property for compliance with the approved Storm Water Management Plan and this permit.
 - (j) Where a Storm Water Management Plan involves direction of some or all runoff off of a site, it shall be the responsibility of the permit holder to obtain from adjacent property owners any easements or other necessary property/interests concerning flowage of water per 14.06(1)(e). Issuance of this permit does not create or effect any such rights.
 - (k) The permit holder is subject to the enforceable actions detailed in Section 14.10 of the storm water management ordinance if the permit holder fails to comply with the terms of this permit.
- (6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Village notifies the permit holder that all storm water management measures have passed the final inspection required under "Permit Conditions" sec. 14.07(5).

14.08 STORM WATER MANAGEMENT PLANS

- (1) PLAN REQUIREMENTS. The Storm Water Management Plan required under Section 14.07 of this ordinance shall contain any such information the Village may need to evaluate the environmental characteristics of the area affected by land development or redevelopment activity, the potential impacts of the proposed development upon the quality and quantity of storm water discharges, the potential impacts upon the area's water resources, and drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, Storm Water Management Plans shall contain, at a minimum, the information described within the Storm Water Management Users Guide provided by the Village.

All site investigations, plans, designs, computations, and drawings shall be certified by a registered professional engineer in the State of Wisconsin to be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by the Village.

- (2) EXCEPTIONS. The Village may prescribe alternative submittal requirements for applicants seeking an exception to on-site storm water management performance standards under Section 14.06(3) of this ordinance.

14.09 MAINTENANCE AGREEMENT

- (1) MAINTENANCE AGREEMENT REQUIRED. The Maintenance Agreement required for storm water management measures under 14.07(2) of this ordinance shall be an agreement between the Village and the permit holder. The agreement shall be recorded as a property deed restriction by the permit holder with the County Register of Deeds, so that it is binding upon all subsequent owners of land served by the storm water management measures.
- (2) AGREEMENT PROVISIONS. The Maintenance Agreement shall contain the following provisions.
- (a) The landowner shall maintain storm water management measures in accordance with the storm water practice maintenance provisions contained in the approved Storm Water Management Plan

submitted under 14.07(2) of this ordinance and with the provisions of E.(5)(a)4. Structural Control Maintenance of the Village's NR 216 Permit.

- (b) The Village is authorized to access the property to conduct inspections of storm water measures as necessary to ascertain that the measures are being maintained and operated in accordance with the approved management plan.
 - (c) The Village shall maintain public records of the results of the site inspections, shall inform the landowner responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water management measure into proper working condition and a reasonable time frame during which the corrective action must be taken.
 - (d) The permit holder authorizes the Village to perform the corrective actions identified in the inspection report if the landowner does not make the required corrections in the specified time period. The permit holder consents to the Village placing these associated costs incurred by the Village upon the tax roll as a special assessment against the property pursuant to law, or to charging such costs against the performance bond posted for the project.
- (3) **TERMINATION OF AGREEMENT.** The Maintenance Agreement shall be terminated at such time that responsibility for maintenance of the storm water management measure is legally transferred to the Village of Brown Deer or agency acceptable to the Village of Brown Deer, through a written, binding agreement. The termination date of the Maintenance Agreement required under 14.09(1) shall be the date upon which the legal transfer of maintenance responsibility to the Village of Brown Deer or acceptable agency is made effective.

14.10 ENFORCEMENT AND PENALTIES

- (1) Any land development or redevelopment activity initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with said provisions.
- (2) The Village shall notify the responsible owner or operator in writing of any non-complying land development or redevelopment activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the Village, the permit holder shall correct work, which does not comply with the Storm Water Management Plan or other provisions of this permit within 30 days. The permit holder shall make corrections as necessary to meet the specifications and schedule set forth by the Village in the notice.
- (4) The Village shall post a stop work order on all land development activity in violation of this ordinance, or shall request the Village of Brown Deer's attorney to obtain a cease and desist order.
- (5) The Village may revoke a permit issued under this ordinance for noncompliance with ordinance provisions without further notice or hearing.
- (6) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless repealed by the Village or by a court of competent jurisdiction.
- (7) The Village shall refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Village of Brown Deer's Attorney for the commencement of further legal proceedings.
- (8) Any person, firm, association, or corporation who does not comply with the provisions of this

ordinance shall be subject to a forfeiture of not less than 50 dollars nor more than 5,000 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

- (9) Every violation of this ordinance is a public nuisance. Compliance with this ordinance may be enforced by injunctive order at the suit of the Village of Brown Deer pursuant to Chapter 62.23(8) Wis. Stats. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.
- (10) When the Village determines that the permit holder has failed to follow measures set forth in the Storm Water Management Plan submitted and approved pursuant to Section 14.07 of this ordinance, or has failed to comply with schedules set forth in said Storm Water Management Plan, the Village 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 Village shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance bond posted pursuant to Section 14.09 of this ordinance. Where such a bond has not been established, or where such a bond 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.

14.11 APPEALS

- (1) BOARD OF APPEALS. The Village of Brown Deer Board of Appeals, created under the Village of Brown Deer Code pursuant to ss. 62.23(7)(e) Wis. Stats., shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by Village personnel in administering this ordinance. The Board shall also use the rules, procedures, duties, and powers authorized by statute and Village ordinances in hearing and deciding appeals.

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

- (2) WHO MAY APPEAL. Any officer, department, board or commission of the Village, or any aggrieved person affected by any decision of Village personnel may appeal to the board of appeals.

14.12 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 judgement.