CHAPTER 2

Village of Caledonia Storm Water Utility District Regulations and Rates
(2013-22 – 11/04/13)

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SEC. 9-2-1 CALEDONIA STORM WATER UTILITY DISTRICT; PURPOSE.

(a) **Storm Water Utility District**. The Caledonia Storm Water Utility District shall be Village-wide and shall be considered the successor entity to both the "Lake Michigan Storm Sewer Utility District" and the "Root River Storm Sewer Utility District" pursuant to Sec. 66.0827, Wis. Stats. (referred to herein as the "Storm Water District", "Storm Sewer District" or "District").

(1) **District Boundaries**. The boundaries of the Storm Water Utility District shall match the municipal boundaries of the Village of Caledonia and shall encompass all parcels of land within the Village.

(2) **Obligations to and from District.** Nothing in this Section shall be construed as discharging any person, firm, corporation, or organization from any obligation to the predecessor Lake Michigan Storm Sewer Utility District or the predecessor Root River Storm Sewer Utility District incurred prior to the enactment of this Section, including, but not limited to, compliance with the rules and regulations of either District, payments of any monies owing to either District and performance of any contracts entered into with either District. Nothing herein shall affect the obligations that either District has as to any outstanding bond issuances or other debt obligations.

(3) **Commission**. The Storm Water Utility's Commission shall have the powers and duties as specified in Section 2-5-8 of this Code of Ordinances.

(4) **Public Services Director.** The Public Services Director shall oversee the Caledonia Water Utility District. Per Section 2-4-19 of this Code of Ordinances the Public Services Director shall be appointed by the Village Board for an indefinite term of office and shall serve at the pleasure of the Village Board.

(5) **Utility District Personnel.** All of the Storm Water Utility District's personnel are Village employees subject to the Village Personnel Policy Manual.

(b) **Purpose**. The purpose of this Chapter is to establish rules and regulations for the Village of Caledonia Storm Water Utility District, to administer drainage within the boundaries of the Village-wide District.

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.

(g) **Commission** means the Village of Caledonia Storm Water Utility District Commission.

(h) **District** means the Village of Caledonia Storm Water Utility District.

SEC. 9-2-3 COMPREHENSIVE DRAINAGE PLAN.

(a) The Town of Caledonia Comprehensive Drainage Plan, adopted by the then 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 District. The Village of Caledonia

incorporated as the Village of Caledonia and the Village is the successor entity to the Town.

(b) The Village 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 Village 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 Village road, any drainage easement or any creek, stream, river, canal or drainage system within the District with dirt, debris or obstruction without prior written approval of the Village 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 District in such manner as to obstruct or fill any Village ditch, drainage easement, creek, stream, river, canal or drainage system without prior written approval of the Village 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 Village ditch, drainage easement, creek, stream, river, canal or drainage system within the District in violation of subsections (a) and (b) above shall, on written order from the Village 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 Village Engineer shall specify in writing, the Village 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 or 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 Village 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 this Chapter and Titles 14, 16 and 18 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 this Chapter and Titles 14, 16 and 18 of the Code of Ordinances and the approved development plans and specifications.

SEC. 9-2-6 ADDITIONAL REQUIREMENTS FOR PROPERTIES THAT ARE LOCATED WITHIN THE BOUNDARIES OF THE MILWAUKEE METROPOLITAN SEWERAGE DISTRICT.

(a) As used herein, the terms:

(1) "Properties Within MMSD" shall mean all properties in the portions of the Village that are located within the boundaries of the Milwaukee Metropolitan Sewerage District ("MMSD") sanitary sewer service area as said boundaries are presently existing and as modified from time to time hereafter.

(2) "MMSD Chapter 13": shall mean Chapter 13 of MMSD's rules entitled "Surface Water and Storm Water", as presently existing and as amended from time to time hereafter. MMSD's rules are posted at www.mmsd.com.

(3) "Development" shall mean the construction of buildings, roads, parking lots, and paved or unpaved storage areas on the Properties Within MMSD.

(4) "Redevelopment" means new development that replaces old development.

(5) "Storm and surface water management" shall mean the complete combination of structural and non-structural means used to reduce the rate or volume of storm and/or surface water runoff from any of the Properties Within MMSD.

(b) All development, redevelopment and storm and surface water management of the Properties Within MMSD shall comply with MMSD Chapter 13 and the provisions of this Chapter.

(c) The Village shall submit to MMSD all reports and data required under MMSD Chapter 13 in regard to the Properties Within MMSD.

(d) If any provision of MMSD Chapter 13 conflicts with any provision of this Chapter in regard to the Properties Within MMSD, the provision in MMSD Chapter 13 shall control.

(e) A violation of MMSD Chapter 13 by an owner of any of the Properties Within MMSD shall constitute a violation of this Chapter.

(f) A copy of MMSD Chapter 13 shall be kept on file and open to public inspection in the office of the Village Engineer.

SEC. 9-2-7 REPEALED.

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 District, to ensure that the budget provides an accurate, detailed representation of the District's cash flow.

(b) All expenditures of the District shall be specified in the operating budget which shall include, but not be limited to, the following:

(1) Capital projects under the District' 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 and/or Fees.

(2) Special assessments.

(3) Impact and/or drainage fees.

(4) Investment income.

(5) Any other revenue.

(d) The District's proposed budget shall be submitted to the Village Administrator for review and submittal to the Village Board for approval, at least thirty (30) days prior to the adoption of the Village'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 Village's Code of Ordinances.

(2) Whenever the District or Village finds a person has violated a prohibition or failed to meet a requirement of this Section, the District or Village 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 Village may abate the public nuisance created by the Illicit Connection or Discharge in accordance with Title 11, Chapter 6 of the Village's Code of Ordinances or in accordance with applicable statute.

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

(a) **Authority.**

(1) This Ordinance is adopted by the Village Board under the authority granted by Sec. 61.354, Wis. Stat. This Ordinance supersedes all provisions of an Ordinance previously enacted under Sec. 61.35, Wis. Stat., that relate to storm water management regulations. Except as otherwise specified in Sec. 61.354, Wis. Stat., Sec. 61.35, Wis. Stat. applies to this Ordinance and to any amendments to this Ordinance.

(2) The provisions of this Ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

(3) The Village Board hereby designates the Village 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 Sec. 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 Village Board finds that uncontrolled, post–construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post–construction runoff can:

(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 Village Board that this Ordinance regulates post–construction storm water discharges to waters of the State and to minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the State. This Ordinance may be applied on a site–by–site basis. The Village Board recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this Ordinance is through the preparation and implementation of comprehensive, systems–level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Sec. 281.16, Wis. Stat., for regional storm water management measures and have been approved by the Village Board, it is the intent of this Ordinance that the approved storm water management 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 to any of the

following, unless otherwise exempt under Sec. 9-2-10(d)(1)b.

1. Land disturbing construction activity that involves an increase of 1/2 acre (21,780 square feet) or more of impervious surface but less than one (1) acre of land disturbing construction activity (43,560 square feet) shall be subject to discharge quantity standards only;
2. Both discharge quantity and quality standards shall apply to any land disturbing construction activity which disturbs one (1) or more acres (43,560 square feet) regardless of the amount of additional impervious surface created;
3. Discharge quantity standards will apply to phased developments if the cumulative amount of new impervious surface is 1/2 acre (21,780 square feet) or more, even if the individual components of a development each create less than 1/2 acre of impervious surface; both discharge quantity and quality standards will apply if the cumulative amount of land disturbing construction activity disturbs one (1) or more acres (43,560 square feet), even if the individual components of a development each disturb less than one (1) acre of land;

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 the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of this Ordinance.
3. Nonpoint discharges from agricultural facilities and practices.
4. Nonpoint discharges from silviculture activities.
5. Routine maintenance for project sites under one (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 Sec. 9-2-10(d)(1)(a), this Ordinance applies to post-construction sites of any size that, as determined by the Village Engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, causes undue channel erosion, or increases water pollution by scouring or the transportation of particulate matter.

(2) **Jurisdiction.** This Ordinance applies to post construction sites within the boundaries and jurisdiction of the Village 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 Village 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. Stat.

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. Stat., such that activities directed and supervised by WisDOT are exempt from this Ordinance.

(e) **Definitions.**

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

(2) **"Administering authority"** means the Village Engineer designated by the Village Board to administer this Ordinance.

(3) **"Agricultural facilities and practices"** has the meaning given in Sec. 281.16, Wis. Stat.

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

(5) **"Average annual rainfall"** means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSlamm, P8 or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality. In this Ordinance, the location has been selected as average annual rainfall: Milwaukee (Mar. 28–Dec. 6).

(6) **"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.

(7) **"Business day"** means a day the office of the Village Engineer is routinely and customarily open for business.

(8) **"Cease and desist order"** means a court–issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the Village of Caledonia.

(9) **"Combined sewer system"** means a system for conveying both sanitary sewage and storm water runoff.

(10) **"Connected imperviousness"** means an impervious surface that is connected to the waters of the state via a separate storm sewer , an impervious flow path or a minimally pervious flow path.

(11) **"Design storm"** means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

(12) **"Development"** means residential, commercial, industrial or institutional land uses and associated roads.

(13) "**Direct conduits to groundwater**" means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

(14) **"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.

(15) **"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.

(16) **"Erosion"** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

(17) **"Exceptional resource waters"** means waters listed in Sec. NR 102.11, Wis. Adm. Code.

(18) **"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.

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

(20) **"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 that employ equivalent permanent stabilization measures.

(21) **"Financial guarantee"** means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Village Engineer by the responsible party to assure that requirements of the Ordinance are carried out in compliance with the storm water management plan.

(22) **"Governing body"** means the Village Board of Trustees.

(23) **"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.

(24) **"In–fill"** means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.

(25) **"Infiltration"** means the entry of precipitation or runoff into or through the soil.

(26) **"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.

(27) **"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.

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

(29) **"Maintenance agreement"** means a legal document that provides for long–term maintenance of storm water management practices.

(30) **"MEP"** or **"maximum extent practicable"** means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this Ordinance as in accordance with Sec. 9-2-10(f) of this Ordinance.

(31) **"New development"** means development resulting from the conversion of previously undeveloped land or agricultural land uses.

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

(33) **"Off–site"** means located outside the property boundary described in the permit application.

(34) **"On–site"** means located within the property boundary described in the permit application.

(35) **"Ordinary high–water mark"** has the meaning given in Sec. NR 115.03(6), Wis. Adm. Code.

(36) **"Outstanding resource waters"** means waters listed in Sec. NR 102.10, Wis. Adm. Code.

(37) **"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/".

(38) **"Performance standard"** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(39) **"Permit"** means a written authorization made by the Village Engineer to the applicant to conduct land disturbing construction activity or to discharge post–construction runoff to waters of the state.

(40) **"Permit administration fee"** means a sum of money paid to the Village Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(41) **"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.

(42) **"Pollutant"** has the meaning given in Sec. 283.01(13), Wis. Stat.

(43) **"Pollution"** has the meaning given in Sec. 281.01(10), Wis. Stat.

(44) **"Post–construction site"** means a construction site following the completion of land disturbing construction activity and final site stabilization.

(45) **"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.

(46) **"Preventive action limit**" has the meaning given in Sec. NR 140.05(17), Wis. Adm. Code.

(47) "**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.

(48) **"Redevelopment"** means areas where development is replacing older development.

(49) **"Responsible party"** means the landowner or any other entity performing services to meet the requirements of this Ordinance through a contract or other agreement.

(50) **"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.

(51) **"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 part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

d. Discharges directly or indirectly to waters of the state.

(52) "**Silviculture activity**" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

(53) **"Site"** means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

(54) **"Stop work order"** means an order issued by the Village Engineer which requires that all construction activity on the site be stopped.

(55) **"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.

(56) "**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.

(57) **"Technical standard"** means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(58) **"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.

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

(60) "**TP-40**" means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

(61) "**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, which is incorporated by reference for this chapter.

(62) "**Transportation facility**" means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under Sec. 85.095 (1)(b), Wis. Stat. "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to Sec. 281.33, Wis. Stat.

(63) **"TSS"** means total suspended solids.

(64) **"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.

(65) "**Waters of the state**" includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

(f) **Applicability Of Maximum Extent Practicable.** Maximum extent practicable applies when a person who is subject to a performance standard of this Ordinance demonstrates to the Village Engineer's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance

standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(g) **Technical Standards.** The following methods shall be used in designing the water quality, peak discharge and infiltration components of storm water practices needed to meet the water quality standards of this Ordinance:

(1) Consistent with the 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 Village Engineer.

Note to Users: Pollutant loading models such as DETPOND, WinSLAMM, P8, or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Use the most recent version of the model and the rainfall files and other parameter files identified for Wisconsin users unless directed otherwise by the regulatory authority.

(h) **Performance Standards.**

(1) **Responsible Party.** The responsible party shall comply with this Section and implement a post–construction storm water management plan that incorporates the requirements of this Section.

(2) **Storm Water Management Plan.** A written storm water management plan in accordance with Sec. 9-2-10(j) shall be developed and implemented for each post–construction site.

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

(4) **Requirements.** The Storm Water Management Plan required under Sec. 9-2-10(h)(2) shall include the following:

a. **Base Level Standards for Total Suspended Solids.** All developments shall be subject to and in compliance with the following Base Level Standards for total suspended solids. Compliance with Base Level Standards for total suspended solids shall be achieved through the construction and use of BMPs that are designed, installed and maintained to control total suspended solids carried in runoff from the post–construction site.

Note to Users: These two standards are applied according to the watershed in which the development takes place. In case where a development straddles two watersheds with differing discharge limit standards, the

watershed with the more restrictive limits shall govern.

1. **Design**. BMPs shall be designed in accordance with Table 1. or to the maximum extent practicable as provided in Sec. 9-2-10(h)(4)(a)(2). The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Table 1. TSS Reduction Standards	
Development Type	**TSS Reduction**
New Development	80 percent
In-fill development	80 percent
Redevelopment	40 percent of load from parking areas and roads

2. **Maximum Extent Practicable**. If the design cannot meet a total suspended solids reduction performance standard of Table 1., the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.
Note to Users: Pollutant loading models such as DETPOND, WinSLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Use the most recent version of the model and the rainfall files and other parameter files identified for Wisconsin users unless directed otherwise by the regulatory authority.
3. **Off-Site Drainage**. When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

b. **Stream Protection Standards for Total Suspended Solids.**
1. The Stream Protection Standards for total suspended solids apply to developments greater than 15 acres that are located in and around the Hoods Creek and portions of the Root River watersheds, referred to as the "**Stream Protection Area"**. The following neighborhoods, with boundaries that are defined in the November, 2006 Village of Caledonia Land Use Plan, shall be the Stream Protection Area:
   i. W-1 (Franksville) Neighborhood
   ii. W-2 (Highway K/I-94) Neighborhood
   iii. C-4 (Johnson Park) Neighborhood
   iv. C-5 (Country Lots) Neighborhood
2. The Stream Protection Standards for total suspended solids shall include compliance with all of the Base Level Standards for total

suspended solids described above and at least one BMP from the following list that is designed, installed and maintained to control total suspended solids carried in runoff from the post–construction site. All proposed BMPs are subject to preliminary and final approval of all designs, plans, maintenance requirements and calculations by the Village Engineer prior to construction or adoption of the BMP.

i. **Maintaining Predevelopment Hydrology**

This BMP consists of maintaining the site's predevelopment hydrology. It requires a demonstrated effort to control total imperviousness to minimize the change in the post development curve number and runoff, and to maintain the predevelopment time of concentration.

ii. **Constructing Wetland Storm Water Systems**

This BMP shall consist of construction of an enhanced wet detention basin. All wet detention basins in the Stream Protection Area shall be designed, constructed, and maintained as constructed wetlands. Constructed wetlands are typically engineered systems that use natural processes involving wetland vegetation, soils, and their associated microbial assemblages to assist, at least partially, in treating an effluent or other source of water. Extensive design guidance for the design, siting, and construction of constructed wetlands is available from University of Wisconsin Extension (Wisconsin Storm Water Manual: Artificial Wetland Storm Water Management Systems, Publication G-3691-5) and the US EPA (National Management Measures to Protect and Restore Wetlands and Riparian Areas for the Abatement of Nonpoint Source Pollution).

iii. **Constructing Natural Habitat Enhancements**

This BMP shall consist of management and construction of improvements to enhance the existing natural resources at the property. The developer shall, when site conditions are suitable, construct management and improvement plans that will enhance existing natural resources at the property. Streams, stream buffers, environmental corridors, woodlands and forests, prairie, floodlands, shorelands, ravines, wetlands, would qualify for an enhancement plan prepared by a licensed engineer and scientific experts as applicable. The natural habitat enhancement plans shall follow the format provided for in the Stewardship Plan required as part of the Conservation Subdivision Ordinance of the Village of Caledonia.

Note to Users: The proposed enhancements, improvements, operations, and maintenance (if any) are subject to review by the Village Engineer prior to final design and plan proposal.

c. **Base Level Standards for Discharge Rates.** All developments shall be subject to and in compliance with the following Base Level Standards for discharge rates.

1. The 100-year post-development peak runoff discharge shall not exceed the most restrictive of the following standards:
   i. 10-year predevelopment peak runoff discharge, or
   ii. Maximum hydraulic capacity of existing downstream conveyance facilities as determined by the Village.
2. The post-development runoff discharges for storms up to and including the 10-year shall not exceed the 2-year predevelopment peak runoff discharge.

   Note to Users: These two standards are applied according to the watershed in which the development takes place. In case where a development straddles two watersheds with differing discharge limit standards, the watershed with the more restrictive limits will govern.
3. The runoff curve numbers in Table 2. shall be used to represent the actual pre-development conditions. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, the Village Engineer may allow the use of TP-40 precipitation depths and the Type II distribution.

Note to Users: For determining compliance with the peak flow requirement, the Department recommends use of the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation Frequency Estimates for precipitation depth. The Natural Resources Conservation Service (NRCS) –Wisconsin has calculated county-specific Atlas 14 precipitation depths and they are to be used in combination with the appropriate NRCS MSE3 or MSE4 precipitation distribution. The NRCS calculated county-specific Atlas 14 precipitation depths and MSE3 and MSE4 precipitation distributions are available at: http://www.nrcs.usda.gov/wps/portal/nrcs/detail/wi/technical/engineering/?cid=nrcs142p2_025417.

Table 2. Maximum Pre-Development Runoff Curve Numbers				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

Note to Users: Where the pre-development condition is a combination of woodland, grassland, or cropland, the runoff curve number should be pro-rated by area.

d. **Stream Protection Standards for Discharge Rates**.

1. Stream Protection Standards for discharge rates shall apply to developments greater than 15 acres in area that are located in and around the Hoods Creek and portions of the Root River watersheds, referred to as the "**Stream Protection Area**". The following neighborhoods, with boundaries that are defined in the November, 2006 Village of Caledonia Land Use Plan, make up the Stream Protection Area:
   i. W-1 (Franksville) Neighborhood
   ii. W-2 (Highway K/I-94) Neighborhood
   iii. C-4 (Johnson Park) Neighborhood
   iv. C-5 (Country Lots) Neighborhood
2. The Stream Protection Standards for Discharge Rates are as follows. The 100-year post-development peak runoff discharge shall not exceed the most restrictive of the following standards:
   i. 2-year predevelopment peak runoff discharge, or
   ii. Maximum hydraulic capacity of existing downstream conveyance facilities as determined by the Village.
3. The post-development runoff discharges for storms up to and including the 25-year shall not exceed the 2-year predevelopment peak runoff discharge.

e. **Infiltration**.

1. **Best Management Practices**. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
   a. **Low imperviousness**. For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.

b. **Moderate imperviousness**. For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

c. **High imperviousness**. For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

2. **Pre-development**. The pre-development condition shall be the same as specified in Table 2 of the Peak Discharge section of this Ordinance.

3. **Source Areas**.

a. **Prohibitions**. Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this Section unless demonstrated to meet the conditions identified in Sec. 9-2-10(h)(4)(e)(6):

i. Areas associated with a tier 1 industrial facility identified in Sec. NR 216.21 (2)(a), including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.

ii. Storage and loading areas of a tier 2 industrial facility identified in Sec. NR 216.21 (2)(b).

Note to Users: Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.

iii. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

b. **Exemptions**. Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:

i. Parking areas and access roads less than 5,000 square feet for commercial development.

ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under Sec. 9-2-10(h)(4)(e)(3)(a).

iii. Except as provided under Sec. 9-2-10(h)(3) redevelopment post-construction sites.

iv. In-fill development areas less than 5 acres.

v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.

4. **Location of Practices**.

a. **Prohibitions**. Infiltration practices may not be located in the following areas:

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

ii. Areas within 400 feet of a community water system well as specified in Sec. NR 811.16 (4) or within the separation distances listed in Sec. NR 812.08 for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial and institutional land uses or regional devices for one- and two-family residential development.

iii. Areas where contaminants of concern, as defined in Sec. NR 720.03 (2), are present in the soil through which infiltration will occur.

b. **Separation Distances**.

i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

Table 3. Separation Distances and Soil Characteristics

Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand

Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

ii. Notwithstanding Sec. 9-2-10(h)(4)(e)(4)(b), applicable requirements for injection wells classified under Ch. NR 815 shall be followed.

c. **Infiltration Rate Exemptions.** Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:

i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.

ii. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

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

6. **Groundwater Standards**.

a. Infiltration systems designed in accordance with this Section 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. 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 par. 9-2-10(h)(6)(e)(6)(a), the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

7. **Pretreatment**. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with

subd. 6. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

8. **Maximum Extent Practicable**. Where the conditions of Sec. 9-2-10(h)(4)(e)(3) and Sec. 9-2-10(h)(4)(e)(4) limit or restrict the use of infiltration practices, the performance standard Sec. 9-2-10(h)(4)(e) shall be met to the maximum extent practicable.

f. **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 Section, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

a. For outstanding resource waters and exceptional resource waters, 75 feet.

b. For perennial and intermittent streams identified on a U.S. Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

c. For lakes, 50 feet.

d. For wetlands not subject to Sec. 9-2-10(h)(6)(f)(1)(e) or 9-2-10(h)(6)(f)(1)(e), 50 feet.

e. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.

f. 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 wetland dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

g. In Sec. 9-2-10(h)(6)(f)(1)(d) through (f), 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.

h. Wetland boundary delineation shall be made in accordance with Sec. NR 103.08 (1m). This Section does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in

compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

j. Notwithstanding 9-2-10(h)(6)(f)(1)(a) to (i), the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.

Note to User: A stream or lake is not eligible for a lower protective area width even if contiguous to a less susceptible wetland.

2. **Applicability**. Section 9-2-10(h)(4)(f) applies to post–construction sites located within a protective area, except those areas exempted pursuant to subsection 9-2-10(h)(4)(f)(4) below.

3. **Requirements**. The following requirements shall be met:

i. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written site–specific explanation.

ii. Where land disturbing construction activity occurs within a protective area, adequate sod or self–sustaining vegetative cover of 70% or greater shall be established and maintained where no impervious surface is present. 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–invasive vegetative cover be used in the protective areas. Flood and drought tolerant vegetation that can provide long–term bank stability because of an extensive root system is preferable. Vegetative cover may 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. BMPs such as filter strips, swales, or wet detention ponds that are designed to control pollutants from non–point sources may be located in the protective area.

Note to Users: Other laws, such as Ch. 30, Wis. Stat., and Chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval processes may apply in the protective area.

4. **Exemptions**. This section does not apply to any of the following:
   i. Except as provided under Sec. 9-2-10(h)(3)redevelopment post–construction sites.
   ii. In–fill development areas less than 5 acres.
   iii. Structures that cross or access surface water such as boat landings, bridges and culverts.
   iv. Structures constructed in accordance with Sec. 61.35 and 61.353, Wis. Stat. and Title 16 Ch. 10 of the Village's Code of Ordinance, the Village's Shoreland Zoning Ordinance.
   v. Areas of post–construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local Ordinance requirements for total suspended solids and peak flow reduction, 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 Sec. 9-2-10(h)(4)(f)(4)(v) is not necessary since the runoff at that location is treated prior to entering the surface water. Other practices necessary to meet the requirements of this section, such as a swale or pond, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state.

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

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.

h. **Swale Treatment for Transportation Facilities.**
   1. **Requirement**. Except as provided in Sec. 9-2-10(h)(4)(h)(2)., transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of local Ordinance requirements for peak flow control, total suspended solids control, and infiltration, if the swales are designed to the maximum extent practicable:

i. Swales shall be vegetated. However, where appropriate, non–vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

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. Swales shall comply with Sections V.F. (Velocity and Depth) and V.G. (Sale Geometry Criteria) with a swale treatment length as long as that specified in Section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources Technical Standard 1005 "Vegetated Infiltration Swales", dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other Sections of Technical Standard 1005.

2. **Other Requirements**.

(a) The Village 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 2,500 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. Water where targeted performance standards are developed under Sec. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(b) The transportation facility authority shall contact the Village Engineer to determine if additional BMPs beyond a water quality swale are needed under this Section.

i. **Detention Pond Design.**

Users shall comply with the Village's Storm Water Pond Design, Landscaping, and Maintenance Requirements – Form SW-2, as amended from time to time, in designing and constructing a detention pond. These requirements have been established by the Village Board and may from time to time be modified by resolution.

j. **Storm Water Landscaping.**

Users shall comply with the Village's Storm Water Pond Design,

Landscaping, and Maintenance Requirements – Form SW-2, as amended from time to time, in designing and constructing storm water landscaping. These requirements have been established by the Village Board and may from time to time be modified by resolution.

k. **Storm Water Maintenance.**
Users shall comply with the Village's Storm Water Pond Design, Landscaping, and Maintenance Requirements – Form SW-2, as amended from time to time, in planning and performing the storm water maintenance requirements. These requirements have been established by the Village Board and may from time to time be modified by Resolution.

(5) **General Considerations for Storm Water Management Measures.** The following considerations shall be observed in on-site and off-site runoff management:

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.

(6) **BMP Location.**

a. To comply with the performance standards required under Sec. 9-2-10(h) of this Ordinance, BMPs may be located on−site or off−site as part of a regional storm water device, practice or system, but shall be installed in accordance with Sec. NR 151.003, Wis. Adm. Code.

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. Stat.

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

1. The Village Engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Village 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:

a. The facility is in place.

b. 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.

c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

c. Where a regional treatment option exists such that the Village 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 in negotiation with the Village. In determining the fee for post-construction runoff, the Village shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(7) **Discretionary Storm Water Management Credits.**

The intent of this Section is to manage the long-term, post-construction storm water discharges from land disturbing construction activities for the purpose of diminishing the threats to public health, safety, welfare, and the aquatic environment due to runoff of storm water. Accordingly, the kind of development approach that avoids and minimizes such threats is highly desirable. The Village Engineer, upon review of the development proposal and the accompanying storm water management plan, shall consider the presence of the following project elements in determining the suitability of a credit in peak discharge limits at the project site in accordance with this Section and the procedures established in the Village of Caledonia Storm Water Management Plan. The suitability of a given development for consideration and possible receipt of credits under this Section, as well as the amount of credits to be awarded shall be determined by the Village Engineer in his/her sole discretion. The following guidelines shall be considered by the Village Engineer in determining the amount, if any, of credits to be awarded:

1. Identification of resources that will be impacted by the project. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 1.0% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).
2. Identification of, and construction and implementation of measures to achieve, an overall goal, including, but are not limited to, forest stewardship, water quality preservation and enhancement, farmland preservation, natural habitat restoration, preservation of scenic beauty, archaeological and historic properties preservation, integration of ecological resources or passive recreational uses in development. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 2.0% increase in the post development discharge limit established in Sec. 9-2-10 (h)(3)(c) and (d).
3. Management of runoff close to its source. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 2.0% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).
4. Use of natural processes such as infiltration and vegetative uptake in storm water management. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 2.5% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).
5. Use of site layout, design, construction, and management techniques that achieve multiple storm water management objectives such as groundwater

recharge, discharge rate control, runoff volume control, water quality improvement, and temperature controls. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 2.5% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).

6. Preservation of natural resources in and around the project site to the maximum extent practicable, including avoiding the isolation of natural resources within the site. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 3.0% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).
7. Minimization of site grading impacts, including construction and scheduling provisions that limit the amount of bare earth during construction. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 3.0% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).
8. Controlling total imperviousness to minimize the change in post development curve numbers and to maintain the pre-development time of concentration. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 3.0% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).
9. Increasing the aesthetic value of the proposed development and storm water management facilities through design. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 3.0% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).
10. Inclusion of storm water management facilities into the natural environment through placement, landscaping, and maintenance. If the Village Engineer determines that a credit should be given for completion of this guideline, the developer may receive a 3.0% increase in the post development discharge limit established in Sec. 9-2-10 (h)(4)(c) and (d).

(8) **Additional Requirements.** The Village Engineer may establish storm water management requirements more stringent than those set forth in this Section. if the Village Engineer determines that the requirements are needed to control storm water quantity or control flooding, comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

(i) **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 Village 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 Village Engineer a permit application made on a form provided by the Village Engineer for that purpose.

a. Unless otherwise excluded 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 (h) and (j), the maintenance agreement shall be prepared to meet the requirements of Sec. 9-2-10(k), the financial guarantee shall meet the requirements of Sec. 9-2-10(l), and fees shall be those established by the Village Board as set forth in Sec. 9-2-10(m).

(3) **Review and Approval of Permit Application.** The Village 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 Sec. 9-2-10(i)(2), the Village Engineer shall inform the applicant whether the application, storm water management plan and maintenance agreement are approved or disapproved based on the requirements of this Ordinance.

b. If the storm water permit application, storm water management plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Village Engineer shall issue the permit.

c. If the storm water permit application, storm water management plan or maintenance agreement is disapproved, the Village Engineer shall detail in writing the reasons for disapproval.

d. The Village Engineer may request additional information from the applicant. If additional information is submitted, the Village Engineer shall have ten (10) business days from the date the additional information is received to inform the applicant that the storm water management plan and maintenance agreement are either approved or disapproved.

e. Failure by the Village 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 Village Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Village Engineer to suspend or revoke this permit may be appealed in accordance with Sec. 9-2-10(o).

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 Village 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 Sec. 9-2-10(i)(5), the responsible party shall make additional notification according to a schedule set forth by the Village Engineer so that practice installations can be inspected during construction.

d. Practice installations required as part of this Ordinance shall be certified "as built" or "record" drawings by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Village Engineer or its designee to determine if they are in accordance with the approved storm water management plan and Ordinance. The Village 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.

e. The responsible party shall notify the Village of any modifications it intends to make to an approved storm water management plan. The Village 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.

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

g. The responsible party authorizes the Village 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. Stat., or to charging such costs against the financial guarantee posted under Sec. 9-2-10(l).

h. If so directed by the Village 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.

i. The responsible party shall permit property access to the Village Engineer or his/her designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

j. Where site development or redevelopment involves changes in direction,

increases in peak rate and/or total volume of runoff from a site, the Village 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.

k. The responsible party is subject to the enforcement actions and penalties detailed in Sec. 9-2-10(n), 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 Village Engineer in addition to the requirements needed to meet the performance standards in Sec. 9-2-10(h) or a financial guarantee as provided for in Sec. 9-2-10(l).

(6) **Permit Duration.** Permits issued under this section shall be valid from the date of issuance through the date the Village Engineer notifies the responsible party that all storm water management practices have passed the final inspection required under Sec. 9-2-10(i)(4)(d) above.

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

(1) **Plan Requirements**. The storm water management plan required under Sec. 9-2-10(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 Sec. 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 Sec. 9-2-10(h).

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 Village 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 Village Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on–site storm water management performance standards under Sec. 9-2-10(h).

(k) **Maintenance Agreement.**

(1) **Maintenance Agreement Required.**

The maintenance agreement required under Sec. 9-2-10(i)(2) for storm water management practices shall be an agreement between the Village and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be recorded with the Racine 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 Sec. 9-2-10(j)(1)(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 Sec. 9-2-10(i)(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 Sec. 9-2-10(i)(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 Sec. 9-2-10(k)(2)(b).

e. Authorization for the Village 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 Village 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 required to bring the storm water management practice into proper working condition.

g. Agreement that the party designated under Sec. 9-2-10(k)(2)(c) as responsible for long term maintenance of the storm water management practices, shall be notified by the Village Engineer of maintenance

problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Village Engineer.

h. Authorization of the Village Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under Sec. 9-2-10(k)(2)(c). does not make the required corrections in the specified time period. The Village 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. Stat.

(l) **Financial Guarantee**.

(1) **Establishment of the Guarantee.** The Village Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Village Engineer. The financial guarantee shall be in an amount determined by the Village 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 Village 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 Village Engineer shall release the portion of the financial guarantee established under this Section, less any costs incurred by the Village Engineer to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Village Engineer may make provisions for a partial pro–rata release of the financial guarantee based on the completion of various development stages.

b. The Village 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 Village Engineer, at such time that the responsibility for practice maintenance is passed on to another entity via an approved Maintenance Agreement.

(m) **Fee Schedule.** The fees referred to in other Sections of this Ordinance shall be established by the Village Board and may from time-to-time be modified by Resolution. A schedule of the fees established by the Village Board shall be available for review in the Village Clerk's office of the Village Hall of the Village of Caledonia.

(n) **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 Ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this Ordinance.

(2) The Village 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 Village Engineer under Sec. 9-2-10(n)(2), the Responsible Party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Village 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 Village Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Village Engineer plus interest and legal costs shall be billed to the responsible party.

(5) The Village 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 Village 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 Village Engineer or by a court with jurisdiction.

(8) The Village 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 injunctional proceedings.

Note to Users: Injunctional orders are authorized pursuant to Sec. 61.35, Wis. Stat.

(11) When the Village 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 Village Engineer or a party designated by the Village 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 Village 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 Sec. 9-2-10(l) 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.

(o) **Appeals**.

(1) **Board of Appeals**. The Board of Appeals created pursuant to Sec. 16-1-5 of this Code and Sec. 61.354(4)(b), Wis. Stat.:

a. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village Engineer in administering this Ordinance except for cease and desist orders obtained under Sec. 9-2-10(n)(5).

b. May authorize, upon appeal, variances from the provisions of this Ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship; and

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

(2) **Who May Appeal.** Appeals to the Board of Appeals may be taken by any aggrieved person or by any office, officer, department, board, commission or committee of the Village of Caledonia affected by any decision of the Village Engineer.

(p) **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.

(q) **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 Village Board of the Village of Caledonia on the 2nd day of April, 2016."

9-2-11 PONDS.

(a) **Permit Required**. No person shall construct or make improvements to any pond located within the Village of Caledonia without first obtaining a permit from the Village 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 Village

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 Village 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 Village, as requested by the Village 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 Village 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 Village 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 Village 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 Village 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 Village Engineer for partially completed projects. Other conditions appropriate to the area under consideration may be added to the permit by the Village Engineer.

(5) Additional Permits. Before proceeding with excavation, the applicant, in addition to obtaining a permit from the Village, 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 Village 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 Village Board approval in accordance with the procedure set forth in Section 4-1-13 of the Village's Code of Ordinances.

9-2-12 STORM WATER MANAGEMENT FEES

(a) **Findings and determination.** It is found, determined and declared as follows:

(1) The management of storm water and other surface water discharges within the Village of Caledonia Storm Water Utility District is a matter that affects the health, safety and welfare of the Village of Caledonia, its citizens and businesses.

(2) Failure to effectively manage storm water may create among other things, erosion of lands, damage to homes and businesses, create sedimentation and environmental damages to waterways within the Village of Caledonia Storm Water Utility District.

(3) A system for the collection, conveyance, storage, and treatment of storm water provides services to all properties within the Village of Caledonia Storm Water Utility District and surrounding areas.

(4) Failure to effectively manage storm water contributes to the further degradation of the water quality in area water bodies.

(5) In order to protect the health, safety and welfare of the public the Village Board authorizes the establishment of a fee in connection therewith.

(6) The Village is acting under the authority contained in Chapters 61 and 66 of the Wisconsin Statutes.

(7) Those elements of the Village of Caledonia Storm Water Utility District which provide for the management of storm water and the improvement of storm water quality are of benefit to all real property within the Village of Caledonia Storm Water Utility District.

(8) The costs of operating and maintaining the Village of Caledonia Storm Water Utility District and financing land acquisition, necessary repairs, replacement, improvements and extension thereof should, to the maximum extent practicable, be allocated in direct relationship to the contributions to the demand for storm water management services.

(9) The fees established herein bear a reasonable relationship to the service provided by the Village of Caledonia Storm Water Utility District.

(10) The area of impervious surface on each property is the most important factor influencing the cost of the storm water management services, systems and facilities provided by the Village of Caledonia Storm Water Utility District or to be provided in the future, and the area of impervious surface on each property is therefore the most appropriate parameter for calculating a periodic storm water management fee.

(11) The existence of privately owned and maintained on-site or off-site systems, facilities, activities or assets which significantly reduce or otherwise mitigate the impact of a particular property on the Village of Caledonia Storm Water Utility District's cost of providing storm water management services and/or storm water management systems and facilities should be taken into account to reduce the storm water management fee on that property either in the form of a direct reduction or credit, and that such reduction or credit should be conditional upon continuing provision of such services, systems, facilities, activities or assets in a manner complying with the standards and codes as determined by the Village Board and as set forth herein.

(b) **Definitions.** Unless the ordinance specifically indicates otherwise, the meaning of terms used in this section shall be as follows:

(1) "Commission" means the Village of Caledonia Storm Water Utility District Commission.

(2) "Developed Property" means real property which has been altered from its natural state by the addition of any improvements, such as a building, structure or impervious surface.

(3) "District" means the Village of Caledonia Storm Water Utility District.

(4) "Dwelling Unit" means a single unit or apartment providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(5) "Equivalent Residential Unit (ERU)" means the statistical average amount of horizontal impervious area per single family property of all the residential customer class parcels within the Village on the date of adoption of this ordinance. One ERU has been calculated to be an average of 5,230 square feet The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways, and sidewalks.

(6) "Extension and Replacement" means all costs of extension, addition, and capital improvements to the system, the renewal and replacement of capital assets or purchase and installation of new equipment for the system, or land acquisition for the system, or any related costs thereto, or payment for extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance.

(7) "Fiscal Year" means a twelve (12) month period commencing on the first day of December of any year. The intention of this definition is so that property tax bills issued in December of each year shall include fees imposed for a period of twelve (12) months from December 1 to November 30th of each year.

(8) "Impervious Area" or "Impervious Surface" means a horizontal surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by storm water or rain water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay, gravel, as well as streets, roofs, sidewalks, parking lots, and other similar surfaces.

(9) "Nonresidential" means any developed property not used primarily as a permanent single family residential, such as an agricultural, multi-family,

commercial, industrial property or an institutional property (schools, churches, hospitals, fraternal organizations, parks, municipal facilities, etc.).

(10) "Operating Budget" means estimated revenues and the estimated costs for operations and maintenance, extension, and replacement of the system for each fiscal year.

(11) "Operation and Maintenance" means the current expenses, paid or accrued, of operation, maintenance, and current repair of the system, as calculated in accordance with sound accounting practice and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, the cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be in accordance with sound accounting practice.

(12) "Rate" means the user fee charged on each ERU. The rate is determined by the Village Board for each fiscal year.

(13) "Revenues" mean all rates, fees, assessments, rentals, fines or other charges or other income received by the District in connection with the management and operation of the system, including amounts received from the investment or deposit of monies in any fund or account, as herein required, and any amounts contributed by the Village, all as calculated in accordance with sound accounting practices.

(14) "Single Family" or "Single Family Residential" means a property with exactly one (1) dwelling unit.

(15) "Storm Water Management Fee" means the charge established by the Village Board on all property in the District to pay for operations and maintenance, and extension and replacement for the storm water system.

(16) "Storm Water System" or "System" means the existing storm water collection system of the District and all improvements thereto which by this section are constituted as the property and responsibility of the District to be operated as an enterprise to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

(17) "Village" means the Village of Caledonia.

(18) "Village Board" means the Village Board of the Village.

(19) "Vacant Land" means any non-residential customer class property with no impervious surface area.

(c) **Purpose.** It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the Village of Caledonia Storm Water Utility District to collect charges from all users of the Village of Caledonia Storm Water Utility District storm water collection system. The proceeds of such charges will be used to fund the management of Village of Caledonia Storm Water Utility District's storm water system, including reinvestment in the maintenance and improvement of existing infrastructures, and other improvements to the system that will reduce urban

non-point source pollution in storm water run-off consistent with federal and state regulations.

(d) **Management.**

(1) The rules, regulations and rates hereinafter set forth shall be considered part of the regulations applicable to every property in the Village of Caledonia Storm Water Utility District. Said rules, regulations and rates may be changed from time to time as determined by the Village Board and the right is reserved to make special rates and contracts in all proper cases.

(2) The Village Board shall place within the Village of Caledonia Storm Water Utility District the responsibility for operation, maintenance and regulation of the existing storm water management services, systems and facilities that are within the Village of Caledonia Storm Water Utility District that were previously performed, operated or maintained by the Lake Michigan Storm Sewer Utility District and the Root River Storm Sewer Utility District through the Village of Caledonia, and other related assets, including, but not limited to, properties, other than road rights-of-way, upon which such storm water management systems and facilities are located, easements, rights-of entry and access and certain equipment used solely for storm water management. This responsibility shall be placed primarily with the Village of Caledonia Storm Water Utility District Commission, subject to oversight by the Village Board.

(3) The cost of any convenience, service or public improvement provided by the Village of Caledonia Storm Water Utility District not paid for by special assessment shall be paid from the Storm Water Utility fund under sub. (4).

(e) **Audit**. The Village Board shall cause an annual audit of the books of the Village of Caledonia Storm Water Utility District to be made and the books and records relating to the Village of Caledonia Storm Water Utility District shall be available for inspection during regular business hours.

(f) **Disposition of Revenue.**

(1) The storm water management fees hereunder shall generate adequate annual revenues to pay costs for the construction need, operation and maintenance of current and future storm water facilities, the cost of capital improvements to the District storm water system, street sweeping costs, water quality protection costs, administrative costs, and all other costs and expenses related to storm water management in the District.

(2) Fiscal year end balances in the account shall be carried over to the same account in the subsequent fiscal year and shall be used for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the District shall be returned to their respective sources including an appropriate adjustment of the user fee rates, if necessary. Any transferred monies shall be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.

(g) **Storm Water Management Fees and Rates.**

(1) Storm Water Management Fee. The Village Board shall require that adequate revenues are generated through storm water management fees to provide for a balanced operating budget. The Village Board hereby authorizes the imposition of storm water management fees on all property in the District.

(2) Rates. The Village Board will establish rates for each fiscal year. All rates established by the Village Board will be fair and reasonable and calculated to achieve a balanced operating budget for the system. Current rates will be on file in the office of the Village Clerk and Village Treasurer. Such charges shall include:

Customer Class Charge. All property in the District shall be divided into three (3) classes, which shall be called "customer classes." A charge based on the customer class may be imposed on all property in the District. The rate within each customer class shall be uniform. The rate schedule is as follows:

Customer Class	Storm Water Charge
Single Family Residential	1 ERU
Non-Residential	1 ERU for each 5,230 sq. ft. of Impervious Area
Vacant	0.25 ERU

(e) New construction. For the non-residential customer class, the construction of new or expanded buildings, driveways or other structures shall be subject to an increase in the number of ERU's assigned to a lot or parcel. The Village shall recalculate the number of ERU's assigned to each parcel upon the completion of new construction with respect to said parcel.

(h) **Billing and Payment.** Annual storm water management fees, at the rate set annually by resolution of the Village Board, shall be levied and collected as a special charge against property in the District, under Wis. Stat. § 66.0627 and as provided in this section. Notice of the methodology and amounts that were used by the Village Board shall be posted and/or published as required by Wisconsin Statutes.. Property owners may pay the annual storm water management fee at any time after the rate has been set by the Village Board. Any storm water management fee that has not been paid prior to November 15 shall be deemed to be delinquent and shall be included in the next tax roll for collection and settlement under Chapter 74, Wis. Stats.

(i) **Lien.** All delinquent storm water management fees shall be a lien upon the property served as of the date of delinquency and shall be collected as provided by this section and state statute.

(j) **Establishment of Rate Schedule.** The Village Board shall set the storm water management fee rate by separate resolution.

(k) **Credit Policy.** The Village Board shall adopt a system of storm water management fee credits. In general, no credit shall be given for the installation of storm water management facilities required by the Village, Racine County, or State Storm Water Regulations.

(1) Non-residential properties which are not required by Village or County ordinance or State statute or regulation to install storm water management facilities which take mitigating steps to improve the quantity and quality of storm water discharge by implementing best management practices that reduce the average annual loading of total suspended solids from existing development by 80 percent or more and are designed and/or implemented in accordance with current Wisconsin Department of Natural Resources guidelines and have maintenance agreements in place with the Village of Caledonia for the best management practice as applicable, may be eligible for a reduction of the annual user fee for that portion of the impervious area treated by best management practices. The reduction shall be determined on a case-by-case basis up to a maximum 50 % reduction.

(2) Non-residential properties or portions of properties with impervious surface areas that are internally drained may be eligible for a reduction of the annual user fee. The reduction shall be determined on a case-by-case basis up to a maximum 50% reduction.

(3) No credit shall be considered for structural or nonstructural best management practices that are required in order to comply with Village or County ordinance or State statute or regulation.

(4) No credits shall be considered for any "natural" features such as, but not limited to, wetlands, lakes and floodplains or water impoundment of any kind in existence prior to passage of this Ordinance.

(l) **Adjustment of Fees and Appeal Procedure.**

(1) **Requests for Adjustment**. Requests for adjustment of the user fee, including requests for storm water management fee credits, shall be submitted to the District, which is hereby given the authority to develop and administer the procedures and standards for the adjustment of fees as established herein. All requests shall be judged on the basis of the amount of impervious surface on the site. The Village also retains the right to grant storm water management fee credits to individual properties within the District that exhibit benefits to the storm water management system. The following procedure shall apply to all adjustment requests of the user fee.

(a) Any non-residential customer who has paid a user fee and believes the user fee to be incorrect, may, within thirty (30) days of the payment and subject to the limitations set forth in this section, submit an adjustment request of the Commission. To defray the Commission's costs for reviewing the request, an adjustment review fee may be imposed and collected from an applicant in such amount, if any, as is set periodically by resolution of the Village Board.

(b) Adjustment requests shall be in writing and set forth in detail, the grounds upon which relief is sought.

(c) The non-residential customer requesting the adjustments may be required, at his own expense, to provide supplemental information to the

Commission, including, but not limited to, survey data approved by a Registered Land Surveyor (R.L.S.) and engineering reports approved by a Professional Engineer (P.E.). Failure to provide such information may result in the denial of the adjustments request.

(d) The Commission shall issue a written determination as to whether the request for adjustment shall be granted. For adjustments that are granted, a credit shall be applied to the customer's account. Denials of adjustment requests shall be made, in writing, by the Village of Caledonia Storm water Utility District Commission.

(2) **Appeal Procedure**. The Village elects not to be subject to the administrative review provisions contained in Wis. Stats. Ch. 68, except as set forth below, and establishes the following as a complete and final review procedure:

(i) Upon receipt of the written denial of an adjustment request, the customer who initially requested the adjustment may, within thirty (30) days of receipt of such denial, appeal to the Village Board.

(ii) In the event of an appeal, the Village Board shall hold a hearing as provided in Wis. Stats. §§68.11(2) and 68.11(3). The Village Board shall hold such hearing within 30 days of the appeal request, and shall notify the appellant of the hearing date no less than ten days notice in advance of the hearing. Within 20 days of the hearing and filing of briefs, if any, the village board shall mail or deliver to the appellant its written final determination, setting forth, in detail, the reason or reasons for its decision.

(iii) In reviewing denials of adjustment requests, the Village Board shall apply the standard and review criteria contained in subsection (1) of this section.

(m) **Public Service Commission Complaint.** Notwithstanding subsection (l) , any user may file a complaint with Public Service Commission claiming that rates, rules and practices herein are unreasonable or unjustly discriminatory pursuant to State Statutes Wis. Stats. § 66.0821(5).

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