

**CHAPTER 11
BUILDING AND CONSTRUCTION CODES**

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SECTION 11.11 **EROSION CONTROL**(a) **Authority.**

- (1) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Lodi Town Board.
- (2) The Town of Lodi hereby designates the Town engineer to administer and enforce the provisions of this ordinance.
- (3) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control 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 Wis. Stats. §§ 281.16 and 283.33.
 - (B) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code NR 151.004.

(b) **Findings and Declaration of Policy.**

The Town Board finds that urbanizing land uses have accelerated the process of soil erosion, runoff and sediment deposition in the waters of the Town. It is, therefore, declared to be the policy of this Ordinance to provide for the control and if possible, the prevention of soil erosion, and thereby to preserve the natural resources, control floods and prevent impairment of dams and reservoirs, protect the tax base, and protect and promote the health, safety and general welfare of the people of the Town.

(c) **Purpose.**

It is the purpose of this ordinance to maintain safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; 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 by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the Town of Lodi.”

(d) **Definitions**

The following terms, whenever they occur in this Ordinance, are defined as follows:

- (1) **Administering Authority.** A governmental employee, the Town of Lodi's professional engineer designated by the Town Board or any other persons who are supervised by the Engineer, empowered under Wis. Stats. § 60.627 shall administer this ordinance.
- (2) **Agricultural Lands.** Lands used for production of food and fiber, including but not limited to, general farming, livestock and poultry enterprises, grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production, cranberry production and wild crop harvesting and includes lands used for on-site structures necessary to carry out such activities.
- (3) **Agricultural Facilities and Practices.** Has the meaning in Wis. Stats. §281.16(1).
- (4) **Best Management Practices or BMP.** Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (5) **Cease and Desist Order.** 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 administering authority.
- (6) **Construction Site.** An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.
- (7) **Design Storm.** A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (8) **Erosion.** The process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (9) **Erosion and Sediment Control Plan.** A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (10) **Excavation.** Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

- (11) **Existing Grade.** The vertical location of the existing ground surface prior to excavation or filling.
- (12) **Fill.** Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by human forces to a new location and shall include the conditions resulting therefrom.
- (13) **Final Stabilization.** Completion of all land disturbing construction activities at the construction site and a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (14) **Governing Body.** The Lodi Town Board of Supervisors.
- (15) **Grading.** Altering the elevation of the land surface by stripping, excavating, filling, or stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
- (16) **Land Disturbing Activities or Uses.** Any land alterations or disturbances which may result in soil erosion, sedimentation and/or the increase in runoff, including but not limited to tilling, removal of ground cover, grading, excavating and filling of land, except that the term shall not include such minor land-disturbing activities as home gardens and repair and maintenance of private roads. Additionally, this term does not include agricultural land uses.
- (17) **Land Disturbing Construction Activity.** 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.
- (18) **Landowner.** 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.
- (19) **Parcel.** All contiguous lands under the ownership or control of a land occupier or land user.

- (20) **Peak Flow.** The maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.
- (21) **Performance Standard.** A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (22) **Permit.** The signed, written statement issued under this Ordinance authorizing the applicant to engage in general land disturbing uses specified and for a specified period of time.
- (23) **Permittee.** Any person to whom a permit is issued under this Ordinance.
- (24) **Person.** Any individual, corporation, limited liability company, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.
- (25) **Pollutant.** Has the meaning given in Wis. Stats. §283.01.
- (26) **Pollution.** Has the meaning given in Wis. Stats. §281.01.
- (27) **Public Lands.** All lands which are subject to regulation by the Town, including, but not limited to:
- (A) all lands owned or controlled by the Town; and
 - (B) all land, within the political boundaries of the Town, which are owned by another unit of government if that unit of government is acting in a proprietary rather than governmental function.
- (28) **Removal.** Cutting vegetation to the ground or stumps, complete extraction, or killing by spraying.
- (29) **Responsible Party.** The landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (30) **Review Agency.** Any agency designated by the Town for the purpose of seeking technical advice as to the adequacy of erosion and runoff control plans to conform to the standards and criteria of Section 11.11(g).
- (31) **Runoff.** Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

- (32) **Sediment.** Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site or origin by air, water, gravity or ice, and has come to rest on the earth's surface at a different site.
- (33) **Sedimentation.** The transportation and deposition of sediment that may ultimately degrade water quality by the presence of suspended solid particles, derived from soils by erosion or discharged into surface waters from other sources; or the deposition of water-borne sediments in stream channels, lakes, reservoirs, or on floodplains, usually because of a decrease in the velocity of the water.
- (34) **Site.** The bounded area described in the Erosion Control or Storm Water Management Plan.
- (35) **Soil Loss.** Soil movement from a given site because of land disturbing activities or by the forces of erosion and redeposited at another site on land or in a body of water.
- (36) **Stop-Work Order.** A means of giving notice to the permittee that the Town Engineer believes that the permittee has violated one or more provisions of this Ordinance. Notice is given both by posting upon the lands where the land disturbing activity occurs one or more copies of a poster stating the violation and by mailing a copy of this poster by certified mail to the permittee at the address shown on the permit.
- (37) **Waters of the State.** 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.
- (e) **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 Town 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.
- (f) **Technical Standards.**
All BMPs required for compliance with this ordinance shall meet design criteria, standards and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V Wis. Admin. Code Chapter NR 151.
 - (2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.
 - (3) Technical standards and methods approved by the Town.
- (g) **Performance Standards for All Construction Sites.**
- (1) **General Requirement.** Any landowner, land occupier or land user who undertakes, begins, commences or performs land disturbing activities, or who permits another person to do the same, on land subject to this section, shall be subject to the provisions of this Ordinance.
 - (2) **Erosion and Sediment Control Practices.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - (A) The deposition of soil from being tracked onto streets by vehicles.
 - (B) The discharge of sediment from disturbed areas into on-site storm water inlets.
 - (C) The discharge of sediment from disturbed areas into adjacent waters of the state.
 - (D) The discharge of sediment from drainage ways that flow off the site.
 - (E) The discharge of sediment by dewatering activities.
 - (F) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 - (G) The discharge of sediment from erosive flows at outlets and in downstream channels.
 - (H) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state,

such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

- (I) The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
- (3) Location. The BMPs shall be located so that treatment occurs before runoff enters waters of the state.
- (4) The BMPs Used to Comply with this Section Shall be Implemented As Follows:
 - (A) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
 - (B) Erosion and sediment control practices shall be maintained until final stabilization.
 - (C) Final stabilization activities shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (D) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
 - (E) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.
- (h) **Construction Sites Subject to Erosion and Sediment Control Permitting.**
 - (1) **General Requirement.** Any landowner, land occupier or land user who undertakes, begins, commences or performs land disturbing activities, or who permits another person to do the same on land subject to this section, shall be subject to the provisions of this Ordinance. The Responsible Party shall implement the erosion control plan developed in accordance with this section.
 - (2) **Applicability.** Land disturbing activities on public or private lands shall be subject to the erosion and settlement control provisions of this section if:
 - (A) An area of 5,000 square feet or greater will be disturbed by excavation, grading, filling or other earth-moving activities, resulting in the loss or removal of protective ground cover or vegetation; or

- (B) Excavation, fill, or any combination thereof, will exceed 1,000 cubic yards; or
 - (C) Any public street, road or highway, whether federal, state or local, is to be constructed, enlarged, relocated or substantially reconstructed; or
 - (D) Any water courses to be changed, enlarged or materials will be removed from stream or lake beds; or
 - (E) Any proposed land use by a unit of government or by public or private utilities in which underground conduits, cables, piping, wiring, water lines, sanitary sewers or storm sewers will be laid, repaired, replaced or enlarged, if such use involves more than 300 linear feet of trenching or land disturbance; or
 - (F) Any subdivision of land which requires approval of a plat or certified survey;
 - (G) Any land disturbing activity on slopes greater than 15%; or
 - (H) Any land disturbing activity on unstable soils as determined by the Town Engineer.
- (3) **Erosion And Sediment Control Plan.** A written site-specific erosion and sediment control plan shall be developed in accordance with Section 11.01(j) of this Ordinance and implemented for each construction site.
- (4) **Erosion And Other Pollutant Control Requirements.** The erosion and sediment control plan required under sub. (3) shall include the following:
- (A) General Control Practice Standards. All erosion control practices, locations and implementation measures required under Section 11.11(g), above.
 - (B) Sediment Performance Standards. In addition to the erosion and sediment control practices under section (A), the following erosion and sediment control practices shall be included in the erosion and sediment control plan:
 - (i) BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.

- (ii) No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with the maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
 - (iii) Notwithstanding subd. (i), if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.
- (C) Preventive Measures. The erosion and sediment control plan shall incorporate all of the following:
 - (i) Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
 - (ii) Minimization of soil compaction and preservation of topsoil.
 - (iii) Minimization of land disturbing construction activity on slopes of 15 percent or more.
 - (iv) Development of spill prevention and response procedures.
- (5) **Implementation.** The BMPs used to comply with this section shall be implemented as follows:
 - (A) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities being in accordance with the erosion and sediment control plan developed in Section (j)(2) of this Ordinance.
 - (B) Erosion and sediment control practices shall be maintained until final stabilization.
 - (C) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

- (D) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- (E) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(i) **Administration**

(1) **Delegation of Authority.**

The Town Board shall designate the Town Engineer to administer and enforce the provisions of this Ordinance, under its direction. The Town Engineer may seek technical advice from the Columbia County Land Conservation District or the U.S. Department of Agriculture, Soil Conservation Service as to the adequacy of any proposed plan and permit application submitted to the Town.

(2) **Administrative Duties.**

In the administration and enforcement of this Ordinance, the Town Engineer shall perform the following duties:

- (A) Keep an accurate record of all plan data received, plans approved, permits issued, inspections made and other official actions and make a periodic permit activity report to the Lodi Plan Commission.
- (B) If the Town has a designated review agency, the Engineer shall forward permit applications and control plans for review to the review agency. The Town Engineer may issue permits required by Section 11.11(h) of this Ordinance under the procedure set forth herein only upon the recommendation of the review agency.
- (C) Investigate all complaints made to the application of this Ordinance.
- (D) Revoke any permit granted under this Ordinance if it is found that the holder of the permit has misrepresented any material fact in the permit application or plan; or has failed to comply with the plan as originally approved or as modified in writing subsequently by the Town Engineer; or has violated any of the other conditions of the permit as issued to the applicant.

(3) **Inspection Authority.**

The Town Engineer is authorized to enter upon any public or private lands affected by this Ordinance to inspect the land prior to permit issuance for the purpose of determining whether to approve the plan and after permit

issuance to determine compliance with this Ordinance. If permission cannot be received from the land occupier or user, entry by the Town Engineer shall be by special inspection warrant pursuant to Wis. Stats. §§ 66.0119 and 66.0121.

(4) **Enforcement Authority.**

The Town Engineer is authorized to post a stop work order upon land which has had a permit revoked or to post a stop work order upon land which is currently undergoing any land disturbing activity in violation of this Ordinance. The Town Engineer shall supply a copy of each stop work order to the Town Attorney. In lieu of the stop work order, the Town Engineer may issue a written cease and desist order to any land occupier or land user whose activity is in violation of this Ordinance. These orders shall specify that the activity must be ceased or brought into compliance with the Ordinance within seven days. Any revocation, stop work order or cease and desist order shall remain in effect unless retracted by the Town Board, the Town Engineer or by a court of general jurisdiction; or until the land disturbing activity is brought into compliance with the Ordinance. The Town Engineer is authorized to refer any violation of this Ordinance or of a stop work or cease and desist order issued pursuant to this Ordinance to the Town Attorney for the commencement of further legal proceedings.

(j) **Erosion And Sediment Control Plan, Statement And Amendments.**

(1) **Erosion And Sediment Control Plan Statement.** For each construction site identified under Section 11.11(d)(6), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Town. The erosion and sediment control plan statement shall briefly describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement.

(2) **Erosion And Sediment Control Plan Requirements.**

(A) An erosion and sediment control plan shall be prepared and submitted to the Town.

(B) The erosion and sediment control plan shall be designed to meet the performance standards in Sections 11.11(g) and other requirements of this ordinance.

(C) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

- (i) Name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
 - (ii) Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
 - (iii) Description of the intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - (iv) Estimates of the total area of the construction site and the total area of the construction site that is expected to be disturbed by land disturbing construction activities.
 - (v) Calculations to show the compliance with the performance standard in Section (h)(4)(B)(i).
 - (vi) Existing data describing the surface soil as well as subsoils.
 - (vii) Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
 - (viii) Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (D) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than fifty (50) feet per inch and at a contour interval not to exceed two feet.

- (i) Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
 - (ii) Boundaries of the construction site.
 - (iii) Drainage patterns and approximate slopes anticipated after major grading activities.
 - (iv) Areas of soil disturbance.
 - (v) Location of major structural and non-structural controls identified in the erosion and sediment control plan.
 - (vi) Location of areas where stabilization BMPs will be employed.
 - (vii) Areas which will be vegetated following land disturbing construction activities.
 - (viii) Area(s) and location(s) of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
 - (ix) Areas(s) used for infiltration of post-construction storm water runoff.
 - (x) An alphanumeric or equivalent grid overlying the entire construction site map.
- (E) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:

- (i) Description of interim and permanent stabilization practices, including a BMP implementation schedule. The erosion and sediment control plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 - (ii) Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the Town, structural measures shall be installed on upland soils.
 - (iii) Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
 - (iv) Trapping of sediment in channelized flow.
 - (v) Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
 - (vi) Protection of downslope drainage inlets where they occur.
 - (vii) Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
 - (viii) Clean up of off-site sediment deposits.
 - (ix) Proper disposal of building and waste material.
 - (x) Stabilization of drainage ways.
 - (xi) Installation of permanent stabilization practices as soon as possible after final grading.
 - (xii) Minimization of dust to the maximum extent practicable.
- (F) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.
- (3) **Erosion And Sediment Control Plan Amendments.** The applicant shall amend the erosion and sediment control plan if any of the following occur:

- (A) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the erosion and sediment control plan.
- (B) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
- (C) The Town notifies the applicant of changes needed in the erosion and sediment control plan.

(4) **Fees For Engineering Review and Enforcement.**

- (A) Any person who submits an application for approval of an erosion control plan or issuance of a permit required by this Ordinance shall pay a fee equal to the Town's actual cost for engineering work by the Town Engineer and/or review agency incurred by the Town in connection with review of the erosion control plan, including any inspections required to assure compliance with the plan. The fee shall be paid prior to issuance of the permit if the engineering review fees have been billed by that time. If billed to the Town after issuance of the permit, the fee shall be paid within 30 days of its receipt by the applicant. Failure to pay such fee within 30 days shall be grounds for revocation of the permit, issuance of a stop work order, and/or charging the cost as a special charge against the property pursuant to Wis. Stats. § 66.0627, in the discretion of the Town Board.
- (B) If the Town Engineer and/or review agency is required to undertake any enforcement action under Section 11.11(m) of this Ordinance, all fees charged to the Town by the Engineer shall be collected by the Town from the person or persons violating the Ordinance, unless a Court of record expressly dismisses an action to enforce the Ordinance or finds that the Engineer's actions lacked a reasonable basis under this Ordinance. If unpaid by the responsible party within 30 days of submission, the Town shall enter the cost as a special charge against the property pursuant to Wis. Stats. § 66.0627.

(k) **Permitting Requirement, Procedures and Fees.**

- (1) **Permit Required.** No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Town.

- (2) **Permit Application And Fees.** The responsible party that will undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Section 11.11(j), and shall pay an application fee to the Town in the amount specified in Section (j)(4). By submitting an application, the applicant is authorizing the Town to enter the site to obtain information required for the review of the erosion and sediment control plan.
- (3) **Permit Application Review And Approval.** The Town shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
- (A) Within fifteen (15) business days of the receipt of a complete permit application, as required by sub. (2), the Town shall inform the applicant whether the application and erosion and sediment control plan are approved or disapproved based on the requirements of this ordinance.
- (B) If the permit application and erosion and sediment control plan are approved, the Town shall issue the permit.
- (C) If the permit application or erosion and sediment control plan is disapproved, the Town shall state in writing the reasons for disapproval.
- (D) The Town may request additional information from the applicant. If additional information is submitted, the Town shall have fifteen (15) business days from the date the additional information is received to inform the applicant that the erosion and sediment control plan is either approved or disapproved.
- (E) Failure by the Town to inform the permit applicant of a decision within fifteen (15) 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) **Surety Bond.** As a condition of approval and issuance of the permit, the Town may require the applicant to deposit a surety bond. irrevocable letter of credit or cash deposit to guarantee a good faith execution of the approved erosion and sediment control plan and any permit conditions, in the amount of at least 110% of the estimated cost of implementation, maintenance, and removal of the approved erosion and control sediment plan. When the approved erosion and sediment control plan is not

completed as approved, the Town may use the required security to complete all remaining work to achieve plan compliance.

- (5) **Permit Requirements.** All permits shall require the responsible party to:
- (A) Notify the Town within 48 hours of commencing any land disturbing construction activity.
 - (B) Notify the Town of completion of any BMPs within 14 days after their installation.
 - (C) Obtain permission in writing from the Town prior to any modification pursuant to sub (j)(3) of the erosion and sediment control plan.
 - (D) Install all BMPs as identified in the approved erosion and sediment control plan.
 - (E) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (F) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site inspection log.
 - (G) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week. Make needed repairs and install additional BMPs as necessary, and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
 - (H) Allow the Town to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan. Keep a copy of the erosion and sediment control plan at the construction site.
- (6) **Permit Conditions.** Permits issued under this section may include conditions established by Town in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in Section 11.11(g) and (h).

- (7) **Permit Duration.** Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Town may grant one or more extensions not to exceed 180 days cumulatively. The Town may require additional BMPs as a condition of an extension if they are necessary to meet the requirements of this ordinance.
- (8) **Maintenance.** The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.
- (1) **Enforcement.**
- (1) The Town may post a stop work order if any of the following occurs:
- (A) Land disturbing construction activity regulated under this ordinance is occurring without a permit.
- (B) The erosion and sediment control plan is not being implemented in good faith.
- (C) The conditions of the permit are not being met.
- (2) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the Town may revoke the permit.
- (3) If the responsible party, where no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the Town, or if a responsible party violates a stop work order posted under sub. (1), the Town may request the town attorney to obtain a cease and desist order in any court with jurisdiction.
- (4) The Town may retract the stop work order issued under sub. (1) or the permit revocation under sub. (2) at its discretion, or when the site has been brought back into compliance with the approved erosion and sediment control plan at the responsible party's expense. The site must be brought back into compliance and approved by the Town Engineer within seven (7) days after the responsible party is notified of the violation, or the responsible party shall be considered in violation of the ordinance and citations issued for forfeitures until compliance is approved. Each day of non-compliance shall be considered a new violation of this ordinance.

- (5) After posting a stop work order under sub. (1), the Town may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Town may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Town, plus interest at the rate authorized by Town shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk-treasurer shall enter the amount due on the tax rolls as a special charge against the property pursuant to Wis. Stats. §66.0627.
 - (6) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
 - (7) Performance of Work by the Town Engineer. Where the Town Engineer determines that the holder of a permit issued pursuant to this Ordinance has failed to make any improvements or to follow practices as approved in the plan; or has failed to comply with the time schedule as included in the plan, the Town Engineer or a party designated by the Town Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said land into conformity with the requirements of the approved plan. The Town Engineer shall keep a detailed accounting of the costs and expenses of performing this work and these costs and expenses shall be entered on the tax roll as a special charge against the property pursuant to Wis. Stats. § 66.0627 and collected with any other taxes levied thereon for the year in which the work is completed.
- (m) **Violations**
- (1) **Penalties.**
Any person, either owner or occupant of the premises, who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance shall be subject to a forfeiture of \$250, plus applicable assessments and court costs, in accordance with Section 1.21 of this Code. Each day a violation continues to occur shall constitute a separate offense.
 - (2) **Enforcement by Injunction.**
Compliance with the provisions of this Ordinance may also be enforced by injunctive relief at the suit of the Town. It shall not be necessary to prosecute for forfeiture before resorting to injunction proceedings.
 - (3) **Performance of Work by the Town Engineer.**
Where the Town Engineer determines that the holder of a permit issued pursuant to this Ordinance has failed to make any improvements or to follow practices as approved in the plan; or has failed to comply with the

time schedule as included in the plan, the Town Engineer or a party designated by the Town Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said land into conformity with the requirements of the approved plan. The Town Engineer shall keep a detailed accounting of the costs and expenses of performing this work and these costs and expenses shall be entered on the tax roll as a special charge against the property pursuant to Wis. Stats. § 66.0627 and collected with any other taxes levied thereon for the year in which the work is completed.

(n) **Appeals**

(1) **Authority.**

The Town Plan Commission shall:

- (A) Hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Town Engineer in administering this Ordinance.
- (B) Authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(2) **Procedure.**

The rules, procedures, duties and powers of the Town Plan Commission shall apply to this Ordinance.

(3) **Who May Appeal.**

Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the Town affected by the order, requirement, decision or determination made by the Town Engineer. For the purpose of this Ordinance, aggrieved person shall include applicant and property owners who own land which is subject to the Ordinance.

- (4) Pursuant to Wis. Stats. § 68.16, the Town Board elects that the procedures set forth in this section for administrative review of decisions under this Ordinance shall apply in lieu of the procedures of Wis. Stats. Chap. 68, except for Wis. Stats. §§ 68.14 and 68.15.

(o) **Interpretation of Ordinance**

(1) **Abrogation and More Restrictive Requirements.**

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules,

regulations or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

- (2) **Interpretation.**
In its interpretation and application, the provisions of this Ordinance shall be minimum requirements liberally construed in favor of the Town of Lodi and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (3) **Severability.**
If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.
- (p) **Time for Compliance**
Land disturbing activities commenced after the effective date of this Ordinance shall comply with all provisions of the Ordinance.

History Note: Adopted 5/30/89; amended by Resolution No. 2018-02 adopted on 1/29/19.

SECTION 11.15 **STORM WATER MANAGEMENT****(a) Authority.**

- (1) This ordinance is adopted by the Town Board under the authority granted by Wis. Stats. §60.627.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Town Board hereby designates the Town Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - (A) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§. 281.16 and 283.33.
 - (B) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code § NR 151.004.

(b) Findings of Fact.

The Town Board acknowledges 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.
- (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; and control increases in the scouring and transportation of particulate matter.
 - (D) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.
- (2) **Intent.** It is the intent of the Town Board that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The Town Board recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stats. §281.16, for regional storm water management measures and have been approved by the Town 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) **General Requirement.** Any landowner, land user, and/or responsible party who undertakes, begins, commences or performs land-disturbing activities, or who permits another person to do the same, on lands subject to this ordinance, shall be subject to the provisions of this ordinance.
- (B) **Activities Subject to Storm Water Management.** Activities on public or private lands shall be subject to this ordinance, if:
- (i) The land disturbing activity has gross aggregate area of 43,560 square feet or more with a total planned impervious area in excess of 22,000 square feet; or.
- (ii) The land disturbing activity has a gross aggregate area of 43,560 square feet or less with thirty percent or more of the area planned as impervious surfaces including roads, buildings, parking facilities or other improvements.
- (C) Notwithstanding the applicability requirements in par. (A) and (B), this ordinance applies to post- construction sites of any size that, as determined by the Town, 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 Town.

(3) **Exclusions.**

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

(e) **Definitions.**

- (1) **Adequate Sod, or Self-Sustaining Vegetative Cover.** Maintenance of sufficient vegetation types and densities such that the physical integrity of the stream bank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

- (2) **Administering Authority.** A governmental employee or consultant that is designated by the Town Board to administer this ordinance.
- (3) **Agricultural Facilities and Practices.** Has the meaning given in Wis. Stats. § 281.16 (1).
- (4) **Atlas 14.** 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.** 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 means measured precipitation in Madison, Wisconsin between March 12 and December 2, 1981.
- (6) **Best Management Practice or “BMP.”** 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.** A day the office of the Town is routinely and customarily open for business.
- (8) **Cease and Desist Order.** 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 Town.
- (9) **Connected Imperviousness.** An impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.
- (10) **Design Storm.** A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (11) **Development.** Residential, commercial, industrial or institutional land uses and associated roads. “Development” includes, but is not limited to: development, expansion or alteration of a new or existing structure; land disturbing activities; or creation or expansion of impervious surfaces.
- (12) **Direct Conduits to Groundwater.** 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.

- (13) **Division of Land.** The creation from one parcel of 2 or more parcels or building sites of 35 or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5-year period.
- (14) **Effective Infiltration Area.** 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.
- (15) **Erosion.** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (16) **Exceptional Resource Waters.** Waters listed in Wis. Admin. Code § NR 102.11.
- (17) **Filtering Layer.** 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 Town for the site.
- (18) **Final Stabilization.** All land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (19) **Financial Guarantee.** A performance bond, cash, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Town by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (20) **Governing Body.** The Town Board of Supervisors of the Town.
- (21) **Impervious Surface.** 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, gravel or paved parking lots and streets are examples of areas that typically are impervious.
- (22) **In-fill.** An undeveloped area of land located within an existing urban service area, surrounded by development or development and natural or man-made features where development cannot occur.
- (23) **Infiltration.** The entry of precipitation or runoff into or through the soil.
- (24) **Infiltration System.** 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.

- (25) **Land Disturbing Construction Activity.** 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.
- (26) **Landowner.** 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.
- (27) **Maintenance Agreement.** A legal document that provides for long-term maintenance of storm water management practices.
- (28) **Maximum Extent Practicable.** The highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with sub. (h)(8) of this ordinance.
- (29) **New Development.** Development resulting from the conversion of previously undeveloped land or agricultural land uses. “New Development” includes, but is not limited to: development, expansion or alteration of a new or existing structure; land disturbing activities; or creation or expansion of impervious surfaces.
- (30) **NRCS MSE3 or MSE4 Distribution.** A specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.
- (31) **Off-Site.** Located outside the property boundary described in the permit application.
- (32) **On-Site.** Located within the property boundary described in the permit application.
- (33) **Ordinary High-Water Mark.** Has the meaning given in Wis. Admin. Code § NR 115.03 (6).

- (34) **Outstanding Resource Waters.** Waters listed in Wis. Admin. Code § NR 102.10.
- (35) **Peak Flow.** The maximum rate of flow of water at a given point in a channel, watercourse or conduit resulting from the predetermined storm or flood.
- (36) **Percent Fines.** The percentage of a given sample of soil, which passes through a # 200 sieve.
- (37) **Performance Standard.** A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (38) **Permit.** A written authorization made by the Town to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (39) **Permit Administration Fee.** A sum of money paid to the Town by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (40) **Pervious Surface.** 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.
- (41) **Pollutant** has the meaning given in Wis. Stats. §283.01 (13).
- (42) **Pollution** has the meaning given in Wis. Stats. §281.01 (10).
- (43) **Post-Construction Site.** A construction site following the completion of land disturbing construction activity and final site stabilization.
- (44) **Post-Development.** Post-development refers to the extent and distribution of land cover types anticipated to occur under condition of full development under the submitted plan. This term is used to match pre- and post-development storm water peak flows as required by this ordinance.
- (45) **Pre-Development Condition.** 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 Wis. Admin. Code § NR 140.05 (17).

- (47) **Protective Area**. 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**. Areas where new development is replacing older development.
- (49) **Responsible Party**. The landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (50) **Runoff**. 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) **Safe Capacity**. The rate of flow that can be handled without flooding.
- (52) **Separate Storm Sewer**. 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; and
 - (D) Discharges directly or indirectly to waters of the state.
- (53) **Silviculture Activity**. 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.
- (54) **Site**. The bounded area described in the erosion control or storm water management plan.
- (55) **Slope**. The net vertical rise over horizontal run, expressed as a percentage, which represents a relatively homogeneous surface incline or decline over the disturbed area.
- (56) **Stop Work Order**. An order issued by the Town which requires that all construction activity on the site be stopped.

- (57) **Storm Water Management Plan.** A complete plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.
- (58) **Storm Water Management Structure.** A structural measure or device employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (59) **Storm Water Management System Plan.** A comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (60) **Technical Standard.** A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (61) **Top of the Channel.** An edge, or point on the landscape landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (62) **Total maximum daily load or "TMDL."** 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.
- (63) **TP-40.** Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.
- (64) **TR-55.** 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.
- (65) **Transportation Facility.** 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 Wis. Stats. §85.095 (1)(b). "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 Wis. Stats. §281.33.
- (66) **TSS.** Total suspended solids.

- (67) **Type II Distribution.** A rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published in 1973.”
- (68) **Unnecessary Hardship.** Circumstances where special conditions, which were not self-created, affect a particular property and make strict conformity with regulations unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.
- (69) **Waters of the State.** 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 the Town.
- (f) **Applicability Of Maximum Extent Practicable (MEP).**
Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the Town’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 Wis. Admin. Code Chap. NR 151.
- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Town.
- (h) **Performance Standards.**
- (1) **Responsible Party.** The responsible party shall comply with this section.

- (2) Storm Water Management Plan. A written storm water management plan in accordance with sub. (m) of this Ordinance shall be developed and implemented for each post-construction site.
- (3) Requirements. The storm water management plan required under sub. (2) shall include the following:
 - (A) Total Suspended Solids (TSS). BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
 - (i) BMPs shall be designed to retain soil particles greater than 5 microns on the site (80% reduction) or to the maximum extent practicable as provided in sub. (ii). The design shall be based on an average annual rainfall, as compared to no runoff management controls.
 - (ii) Maximum Extent Practicable. If the design cannot meet the 80% total suspended solids reduction performance standard, 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.
 - (iii) 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) Peak Discharge.
 - (i) By design, BMPs shall be designed, installed, and maintained to effectively accomplish the following:
 - ((1)) Maintain pre-development peak runoff rates for the 1-year, 24-hour storm event;
 - ((2)) Maintain pre-development peak run-off rates for the 2-year, 24-hour storm event;
 - ((3)) Maintain pre-development runoff rates for the 10-year, 24-hour storm event.

The runoff curve numbers in Table 1. 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 NRCS Wisconsin MSE4 precipitation distribution. On a case-by-case basis, the Town may allow the use of TP-40 precipitation depths and the Type II distribution.

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

- (ii) This subsection of the ordinance does not apply to a post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.

(C) Infiltration.

- (i) **Best Management Practices.** BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:

((1)) **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.

((2)) **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.

((3)) **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.

(ii) **Pre-development.** The pre-development condition shall be the same as specified in Table 1 of the Peak Discharge section of this ordinance.

(iii) **Source Areas.**

((1)) **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 sub (h)(3)(C):

((A)) Areas associated with a tier 1 industrial facility identified in Wis. Admin. Code § NR216.21 (2)(a), including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.

((B)) Storage and loading areas of a tier 2 industrial facility identified in Wis. Admin. Code § NR 216.21(2)(b).

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

(2) **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:

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

((B)) Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under sub. (iii)(1).

((C)) Except as provided under sub. (h)(3), redevelopment post-construction sites.

((D)) In-fill development areas less than 5 acres.

((E)) Roads on commercial, industrial and institutional land uses, and arterial residential roads.

(iv) **Location of Practices.**

((1)) **Prohibitions.** Infiltration practices may not be located in the following areas:

((A)) Areas within 1000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.

((B)) Areas within 400 feet of a community water system well as specified in Wis. Admin. Code § NR 811.16 (4) or within the separation distances listed in Wis. Admin. Code § 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.

((C)) Areas where contaminants of concern, as defined in Wis. Admin. Code § NR 720.03

(2), are present in the soil through which infiltration will occur.

((2)) Separation Distances.

((A)) 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 2:

Table 2. 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

((B)) Notwithstanding par. ((A)), applicable requirements for injection wells classified under Wis. Admin. Chap. NR 815 shall be followed.

((3)) 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:

((A)) 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.

- ((B)) 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 Wis. Admin. Code Chap. 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. (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 sub. (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 sub. (iii) and (iv) limit or restrict the use of infiltration practices, the performance standard of Section (h)(4)(A)(B) and (C) shall be met to the maximum extent practicable.
- (i) **Protective Areas.**
- (1) **Definition.** In this section, “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 par. (E) or (F), 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 pars. (D) to (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 Wis. Admin. Code § NR 103.03.
- (H) Wetland boundary delineation shall be made in accordance with Wis. Admin. Code § NR 103.08 (1m). This paragraph 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 pars. (A) to (I), the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.
- (2) **Applicability.** This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to sub. (4).
- (3) **Requirements.** The following requirements shall be met:
- (A) 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.
 - (B) Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent 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.
 - (C) 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.
- (4) **Exemptions.** This section does not apply to any of the following:
- (A) Except as provided under sub. (h)(3), redevelopment post-construction sites.
 - (B) In-fill development areas less than 5 acres.
 - (C) Structures that cross or access surface water such as boat landings, bridges, and culverts.
 - (D) Structures constructed in accordance with Wis. Stats. §59.692 (1v).

- (E) 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.
- (j) **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.
- (k) **General Considerations For Storm Water Management Measures.**
The following considerations shall be observed in on-site and off-site runoff management:
 - (1) **Requirements.** 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.
 - (2) **BMP Location.**
 - (A) To comply with the performance standards required under sub. (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 Wis. Admin. Code § NR 151.003.
 - (B) The Town may approve off-site management measures provided that all of the following conditions are met:
 - (i) The Town determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Lodi Town Board and that contains management requirements consistent with the purpose and intent of this ordinance.

- (ii) The off-site facility meets all of the following conditions:
 - ((1)) The facility is in place.
 - ((2)) 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.
 - ((3)) 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 Town 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 Town. In determining the fee for post-construction runoff, the Town shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (3) **Additional Requirements.** The Town may establish storm water management requirements more stringent than those set forth in this ordinance if the Town 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.
- (1) **Permitting Requirements, Procedures and Fees.**
 - (1) **Permit Required.** No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Town prior to commencing the proposed activity.
 - (2) **Permit Application and Fees.** Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Town a permit application on a form provided by the Town 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 subs. (h) and (j), the maintenance agreement shall be prepared to meet the requirements of sub. (k), the financial guarantee shall meet the requirements of sub. (l), and fees shall be those established by the Town Board as set forth in sub. (m).
- (3) **Permit Application Review and Approval.** The Town 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 fifteen (15) business days of the receipt of a complete permit application, including all items as required by sub. (2), the Town 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 Town shall issue the permit.
- (C) If the storm water permit application, storm water management plan or maintenance agreement is disapproved, the Town shall detail in writing the reasons for disapproval.
- (D) The Town may request additional information from the applicant. If additional information is submitted, the Town shall have fifteen (15) 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 Town to inform the permit applicant of a decision within fifteen (15) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **Permit Requirements.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Town may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Town to suspend or revoke this permit may be appealed in accordance with sub. (r).

- (A) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (B) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
- (C) The responsible party shall notify the Town at least fifteen (15) business days before commencing any work in conjunction with the storm water management plan, and within fifteen (15) business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the Town 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 Town or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Town 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 Town of any significant modifications it intends to make to an approved storm water management plan. The Town 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 Town Board, or are transferred to subsequent private owners as specified in the approved maintenance agreement. Where any storm water management practice is installed in connection with a land division under Chapter 10 of the Code and no earlier than after 80% and no later than after 95% of the lots or units are occupied by a principal structure, the responsible party shall inspect and return to their condition as designed all storm water management structures approved at the site at the responsible party's own cost. The maintenance activities shall return the basins or swales to their

original design capacities. The responsible party shall notify the Town prior to the maintenance activities and shall certify that the basins and/or swales are in their original design capacity before the practices become the responsibility of the Town or subsequent property owners.

- (G) The responsible party authorizes the Town 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 charge against the property as authorized under Wis. Stats. §66.0627, or to charging such costs against the financial guarantee posted under **sub. (n)**.
 - (H) If so directed by the Town, 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 Town or its 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 Town 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 sub. (g), if the responsible party fails to comply with the terms of this permit.
- (5) **Permit Conditions.** Permits issued under this subsection may include conditions established by Town in addition to the requirements needed to meet the performance standards in sub. (h) or a financial guarantee as provided for in sub. (j).
- (6) **Permit Duration.** Permits issued under this section shall be valid from the date of issuance through the date the Town notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (h)(3)(D).

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

- (1) **Storm Water Management Plan Requirements.** The storm water management plan 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:
 - (i) One or more site maps at a scale of not less than 1 inch equals fifty (50) 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 two (2) feet; 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 Wis. Admin. Code § NR 811.16.
 - (ii) 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:

- (i) 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.
- (ii) Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
- (iii) One or more site maps at a scale of not less than 1 inch equals fifty (50) 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 two (2) 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.
- (iv) 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).
- (v) 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 sub. (h) of this ordinance.
 - (F) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - (F) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - (H) Other information requested in writing by the Town to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
 - (I) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (2) **Alternate Requirements.** The Town may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under sub. (h)(5).
- (n) **Maintenance Agreement.**
- (1) **Maintenance Agreement Required.** The maintenance agreement required under sub. (n)(2) for storm water management practices shall be an agreement between the Town and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the Columbia 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:
 - (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 sub. (m)(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 sub. (m)(2).
 - (D) Requirement that the responsible party(s) shall maintain storm water management practices in accordance with the schedule included in par. (B).
 - (E) Authorization for the Town to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (F) A requirement on the Town 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 par. (C), as responsible for long term maintenance of the storm water management practices, shall be notified by the Town of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Town.
 - (H) Authorization of the Town to perform the corrected actions identified in the inspection report if the responsible party designated under par. (C) does not make the required corrections in the specified time period. The Town shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. §66.0627.
- (o) **Financial Guarantee.**
- (1) **Establishment of the Guarantee.** The Town shall require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Town. The financial guarantee shall be in an amount determined by the Town to be 110% of the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Town the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon

written notice to the responsible party by the Town that the requirements of this ordinance have not been met.

- (2) **Conditions for Release.** Conditions for the release of the financial guarantee are as follows:
- (A) The Town shall release the portion of the financial guarantee established under this section, less any costs incurred by the Town to complete installation of practices, upon submission of as built plans or record drawings by a licensed professional engineer. The Town may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (B) The Town shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Town, at such time that:
 - (i) The responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement, and
 - (ii) For plats or certified survey maps, at least 70% of the development has been developed and assurance has been provided that the storm water management practices still conform to their approved design conditions and do not then require maintenance.
- (p) **Fee Schedule.**
The fees referred to in other sections of this ordinance shall be established by the Town and may from time to time be modified by resolution. A schedule of the fees established by the Town shall be available for review in the Town Clerk-Treasurer's office.
- (q) **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 Town shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.

- (3) Upon receipt of written notification from the Town under sub. (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 Town in the notice.
- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Town may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Town plus interest and legal costs shall be billed to the responsible party.
- (5) The Town 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 Town Attorney to obtain a cease and desist order in any court with jurisdiction.
- (6) The Town may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Town or by a court with jurisdiction.
- (8) The Town is authorized to refer any violation of this ordinance, or a stop work order or cease and desist order issued pursuant to this ordinance, to the Town Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) When the Town 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 has failed to comply with schedules set forth in said storm water management plan, the Town or a party designated by the Town 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 storm water management plan. The Town 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 sub. (o) 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 pursuant to Wis. Stats. §66.0627 and collected with any other taxes levied thereon for the year in which the work is completed.

(r) **Appeals.**

- (1) Plan Commission. The Plan Commission, created pursuant to Section 2.40 of the Lodi Municipal Code, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town in administering this ordinance. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.
- (2) Who May Appeal. Appeals to the [Plan Commission] may be taken by any aggrieved person or by an officer, department, board, or bureau of the Town affected by any decision of the Town Engineer.

(s) **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.

History Note: Adopted by Resolution No. 2018-03 on January 29, 2019.

SECTION 11.21 BUILDING CODES**(a) Building Permits****(1) Permits Required.**

No person shall build, excavate for, erect or construct any building or structure, nor enlarge, remodel, move, convert or demolish any building or structure, or cause the same to occur, without obtaining a building permit therefor from the Building Inspector. This Ordinance shall not be construed to require a building permit for minor repairs not exceeding \$500.00 (excluding electrical and plumbing) which do not change the size, occupancy, structural strength, fire protection, ventilation, exits or lights of the building or structure.

Except as noted above, the construction that shall require a building permit includes, but is not limited to:

- (A) New 1 & 2 family buildings including detached structures (decks) and detached accessory buildings, and conditions which increase the physical dimensions of such structures.
- (B) Commercial buildings, including agricultural buildings;
- (C) Alterations or additions to commercial buildings or agricultural buildings, or alterations to such buildings heating, electrical, or plumbing systems;
- (D) Replacement of major building equipment, including furnaces and central air conditioners, water heaters, and any other major piece of equipment in such commercial or agricultural buildings except as noted below; or
- (E) Any electrical wiring for new construction or remodeling in commercial or agricultural buildings, excluding new wiring for existing industrial and manufacturing facilities that do not require state-mandated building plan review.

(2) Application and Permit.

- (A) Any person desiring a building permit shall file with the Town Clerk-Treasurer an application therefor in writing on a blank form to be furnished for that purpose. Upon filing, the Town Clerk-Treasurer shall furnish the building permit application to the Building Inspector for processing.
- (B) Every such application for a permit shall describe the land upon which the proposed building or work is to be done, either by lot or

block or tract, tax certificate number and street number, if any, or similar general description that will readily identify and definitely locate the proposed building or work. Every such application shall show the use or occupancy of all parts of the building and such other reasonable information as may be required by the Building Inspector.

- (C) If the application is for a new one-family or two-family dwelling, the Building Inspector shall utilize the statutory building permit application form.
- (D) Copies of the plans and specifications and a plot plan showing the location of the proposed building and of every existing building thereon, shall accompany every application for a permit, and shall be filed in duplicate with the Building Inspector. Plans shall be drawn to scale upon substantial paper or cloth and the essential parts shall be drawn to a scale of not less than one-eighth inch to one foot. Plans and specifications shall be of sufficient clarity to indicate the nature and character of the work proposed and to show that the law will be complied with. Computations, strain sheets, stress diagrams and other data necessary to show the correctness of the plans, shall accompany the plans and specifications when required by the Building Inspector.
- (E) All plans shall bear the name of the architect, engineer or person responsible for their preparation.
- (F) The application, plans and specifications filed by an applicant for a permit shall be checked by the Building Inspector and if found to be in conformity with the requirements of this Ordinance and all other laws or Ordinances applicable thereto, the Building Inspector shall, upon receipt of the required fee, issue a permit therefor. When the Building Inspector issues the permit, he or she shall endorse in writing, or stamp both sets of plans and specifications "Approved." One such approved set of plans and specifications shall be retained by the Building Inspector as a public record, and one such approved set of plans and specifications shall be returned to the applicant, which set shall be kept on such building or work at all times during which the work authorized thereby is in progress and shall be open to inspection by public officials.

Such approved plans and specifications shall not be changed, modified or altered without authorization from the Building Inspector, and all work shall be done in accordance with the approved plans.

- (3) **Posting of Permit.**
With every permit issued, the Building Inspector shall issue to the applicant an appropriate card properly filled out evidencing issuance of the permit. It shall be the duty of such applicant to place such card in a conspicuous place on the premises where the building is to be erected, the card to be unobstructed from public view and available for the Building Inspector to mark.
- (4) **Limitation.**
A permit under which no work is commenced within six months after issuance shall expire. This does not preclude the renewal of a permit if the conditions under which the permit was originally issued have remained unchanged and there has been no change in the law that would adversely affect the permit.
- (5) **Revocation.**
The Building Inspector may revoke a permit or approval issued under the provisions of this Ordinance in case there have been any false statements or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.
- (6) **Inspections.**
- (A) Inspections required under the provisions of this Ordinance shall be made by the Building Inspector.
- (B) The Building Inspector, upon notification from the permit holder or agent, shall cause to be made the following inspections of buildings and either approve that portion of the construction which has been completed or shall notify the permit holder or agent wherein the construction fails to comply with the law, regulations or orders, and it shall be the duty of the permit holder or his agent to notify the Building Inspector when ready for such inspections. The Building Inspector then shall make such inspections as soon as possible and within twenty-four (24) hours after notification, unless delayed by weather or other circumstances beyond the control of the Building Inspector. Inspections shall be made of all new buildings, additions and alterations and of buildings where application for new use is wanted. Normally, inspection will be made as follows:
- (C) **Footing Inspection.** Footing Inspection is to be made when the necessary forms have been erected and all reinforcing steel, when necessary, is in place and the materials for the footing have been delivered on the job.

- (D) Foundation Inspection. Foundation Inspection is to be made after the necessary forms are erected and all reinforcing steel is in place and when all materials for the foundations have been delivered on the job. Foundation Inspection is to be made after the foundation is in place and before the superstructure is placed thereon.
 - (E) Frame Inspection. Frame Inspection is to be made after the roof, all framing, fire blocking, and bracing is in place and all pipes, chimneys and vents are complete. No lath or plasterbase of any kind or any insulation between the studs shall be applied to any building until the frame inspection, electrical inspection, plumbing inspection, heating and ventilating inspections have been made and the work approved. Where Wall Board is used in place of Sheeting, no siding shall be placed until the application of such substitution for wood sheeting is approved.
 - (F) Final Inspection. Final Inspection is to be made after the building is completed and is ready for occupancy. The permit holder or agent shall make written application to the Building Inspector for Final Inspection.
 - (G) The Building Inspector may require further inspections when, due to topography or the materials used in construction, special circumstances exist which make such further inspections necessary.
- (7) **Permit Fees.**
No permit shall be issued by the Building Inspector until fees as established under Section 2.71 have been paid.
- (8) **Demolition of 1 and 2 Family House and Related Structures.**
- (A) Standards:
 - (i) Notify all utilities prior to any demolition.
 - (ii) Disconnect all utilities at the property line in accordance with Utility regulations. In no case shall live utilities be left in the lot. During demolition, sewer pipes shall be protected to prevent entrance of sand, earth or other foreign materials. Upon completion of demolition, the ends of all underground sewer or drainpipes shall be securely stopped with water-tight and durable material. The house sewer shall be abandoned inside the lot line by a licensed master plumber.

- (iii) A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed and shall remain during razing operations.
- (iv) Foundations shall be removed to a minimum depth of 2 feet below ground surface.
- (v) All building material shall be removed from the site and disposed of at the end of each day. All debris including tanks, asbestos and other associated materials shall be dealt with in accordance with local, state and federal regulations
- (vi) All debris including tanks, asbestos and other associated materials shall be dealt with in accordance with local, state and federal regulations.
- (vii) No debris shall be buried or burned on site.
- (viii) Foundation holes shall be filled with soil to at least (1) foot above adjacent grade, graded to a smooth surface, seeded and mulched within 45 days unless a building permit has been issued for a new structure on the site.
- (ix) An erosion control plan shall be submitted indicating how sediment will be contained on site. This shall include provisions to prevent tracking of sediment on public roads.
- (x) Wells shall be abandoned in accordance with Wis. Admin. Code Chap. NR 812.
- (xi) Site shall be inspected by the Building Inspector and all utilities to make sure all codes are met.
- (xii) Razing permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days shall have special approval from the Building Inspector.
- (xiii) The permittee shall take all necessary steps by use of water spraying or other appropriate means to eliminate the nuisance of excessive dust particles in the air.

- (B) Abandoned Premises And Protection Of Property; Fill Dirt, Basement Subflooring.
- (i) Abandoned Excavations. Any excavation which exists for thirty (30) days or more where construction has not been commenced therein shall be considered abandoned and shall be refilled and leveled to grade by the owner of such lot or parcel of land within ten (10) days after receiving a written notice from the Building Inspector of such requirement; upon the failure of such owner to comply with such requirements within the stated period, the work may be done by the Town or its agent and the expense thereof shall be assessed against such lot or parcel of land as a special tax pursuant to Wis. Stats. § 66.0627, to be collected in the same manner as are other real estate taxes.
- (ii) Vacant Buildings. Whenever any building or structure is vacant and the doors and windows of such building or structure exposed to the elements and accessible to trespassers, then such building or structure shall be deemed to be dangerous, unsafe and a menace to public safety. The Building Inspector shall give the owner thereof written notice to secure said building or structure and comply with Town Code requirements within thirty (30) days of the date of said notice. Failure to comply with said written notice shall be sufficient grounds for the Town to condemn and raze said building or structure in accordance with the applicable provisions of Wis. Stats. § 66.0413(2)(c).
- (iii) Protection of Adjoining Property. When the owner of any lot or plot of land, in the Town, in making improvements, is about to excavate or cause an excavation to be made, which excavation in any way affects any building or structure on any adjoining lot, a notice shall be given to all owners of adjoining lots at least ten (10) days prior to commencing the excavation in order to give the adjoining owners a reasonable opportunity to protect their property at their own expense according to law. Such notice shall describe the extent and character of the excavation work about to be done.
- (9) **Penalty.**
- (A) Penalty for starting work prior to issuance of a fully approved building permit shall be double the normal fees for such work, in addition to any other penalties provided elsewhere.

- (B) Violations discovered by the Building Inspector shall be corrected within 30 days, or more if allowed by the Inspector, after written notice is given. Violations involving life safety issues shall be corrected in a reasonable timeframe established by the Building Inspector.
 - (C) Compliance with the requirements of this ordinance is necessary to promote safety, health, and well-being of the community and the owners, occupants, and frequenters of buildings. Therefore, violations of this ordinance shall constitute a public nuisance that may be enjoined in a civil action.
- (10) **Enforcement.**
- (A) Whenever the Building Inspector determines that any construction of a building or structure is occurring without the prior issuance of a building permit or contrary to the terms of a building permit previously issued, the Building Inspector shall order the work stopped by written notice served on any person engaged in doing such work or causing such work to be done. Such person shall immediately stop such work until authorized by the Building Inspector to proceed with the work. The issuance or granting of a permit or approval of plans or specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Ordinance. No permit presuming to give authority to violate, or to fail to comply with provisions of this Ordinance shall be valid except insofar as the work or use which it authorizes is lawful. If, subsequent to the issuance of a permit, errors shall be discovered in the application, plans, specifications or execution of the work, the Building Inspector may require the correction of said errors in said application, plans, specifications or construction and may rescind the building permit and prevent further building operations in violation of this ordinance or any other laws or Ordinances applicable thereto.
 - (B) Any person violating any of the provisions of the Township of Lodi Building Permit Ordinance, the Building Permit Fee Ordinance, the Building Inspector Ordinance or any of the State Building Codes adopted by referenced by the Township of Lodi shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$200.00 for each violation, and shall also pay all costs and expenses incurred in the case. Each day that such violation continues to exist shall constitute a separate and distinct offense. Collection of such forfeitures shall conform to Wis. Stats. Chap. 778.

- (C) The options set forth in (A) and (B) above are alternative procedures. The Town may elect to proceed on any particular violation under (A), (B) or both, or may assess the penalty set forth in (9) of this Ordinance, as the case may be.

History Note: Adopted 1/16/90; amended February 2/15/90; amended 10/30/90; amended through 1994 codification, amended 2/26/96; amended 9/28/99; amended 12/27/05; amended 7/29/08; amended by Ord. No. 2022-02 adopted 2/8/22.

(b) **State Codes Adopted**

The following chapters of the Wisconsin administrative code, as well as all subsequent revisions, are adapted by the Town and shall be enforced by the Building Inspector.

CH. SPS 302.31	Plan Review Fee Schedule
CH. SPS 305	Credentials
CH. SPS 316	Electrical Code
CH. SPS 320-325	Uniform Dwelling Code
CH. SPS 327	Campgrounds
CHS. SPS 361 – 366	Commercial Building Code
CHS. SPS 375 – 379	Buildings Constructed Prior To 1914
CHS. SPS 381 – 387	Uniform Plumbing Code

History Note: Adopted July 28, 1992; amended by Ord. No. 2010-20, 11/30/20 and recodification 8/25/15; amended by Ord. No. 2022-02 adopted 2/8/22.

(c) **Certified Municipality Status**

- (1) Certified municipality. The Town of Lodi has adopted the Certified Municipality Status as described in SPS 361.60 of the Wisconsin Administrative Code.
- (A) Responsibilities. The Town of Lodi shall assume the following responsibilities for the Department of Safety and Professional Services (Department):
- (i) Provide inspection of all commercial buildings with certified commercial building inspectors.
 - (ii) Provide plan examination of all commercial buildings with certified commercial building inspectors.
- (B) Plan Examination. Drawings, specifications, and calculations for all types of buildings and structures, except state buildings and structures, which are to be constructed within the limits of the

Town of Lodi shall be submitted to the Building Inspector for review.

- (C) Plan submission procedures. All commercial buildings, structures, and alterations, including new buildings and additions of less than 25,000 cubic feet require plan submission as follows:
 - (i) Building permit application
 - (ii) Application for review-SBD-118
 - 1. Fees per table SPS 302.31-2 and SPS 302.31
 - 2. Fees apply to all commercial projects
 - (iii) Four sets of plans
 - 1. Signed and sealed per SPS 361.31
 - 2. One set of specifications
 - 3. Component and system plans
 - 4. Calculations showing code compliance

(d) **Building-HVAC-Electrical-Plumbing Inspector**

- (1) Creation and appointment. There is hereby created the office of Building Inspector. The Building Inspector shall be appointed by the Town. The Building Inspector shall be certified for inspection purposes by the Department in the required category specific under SPS 305, Wisconsin administrative code.
- (2) Assistants. The Building Inspector may employ, sign, or point, as necessary, assistant Inspectors. Any assistant hired to inspect building shall be certified as defined in SPS 305, Wisconsin administrative code by the Department.
- (3) Duties. The Building Inspector shall administer and enforce all provisions of this ordinance.
- (4) Powers. The Building Inspector or an authorized certified agent of the build Inspector may, at reasonable hours, enter upon any public or private premises for inspection purposes. The Building Inspector may require the production of the permit for any building, plumbing, electrical, or heat work. No person shall interfere with or refuse to permit access to any such premises to the Inspector or his/her agent while in the performance of his/her duties. In the event that the Inspector is refused access to any such premises, then the Inspector is authorized to apply for a special inspection warrant pursuant to section 66.0119, stats.

(e) Installation of Manufactured Homes**(1) Applicability.**

Pursuant to the general police powers of the Town of Lodi, this section shall govern the installation of all manufactured homes as defined in Wis. Stats. § 101.91(2) and 42 U.S.C. § 5402(6). This section shall not be construed to impose any construction and/or safety standards that are covered under 42 U.S.C. § 5403 or any federal standards or regulations adopted to effectuate its provisions. This section shall not apply to any mobile home or mobile home park as those terms are defined in Sections 6.01(a)(1) or 6.01(a)(2) of this Code.

(2) Installation.

All manufactured homes shall be installed on foundations pursuant to the provisions of the Wis. Admin. Code Chap. SPS 326.12.

History Note: The above and foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Lodi held on the 22nd day of May, 2001; amended by Ord. No. 2010-19, 11/30/10; amended by Ord. No. 2022-02 on 3/8/22.

SECTION 11.31 FENCES AND HEDGES**(a) Authority.**

This Ordinance is adopted under the authority granted to the Town Board by the Town Meeting under Wis. Stats. § 60.10(2)(c), permitting the Town Board to exercise the powers of a Village Board.

(b) Findings and Declaration of Policy.

The Town Board finds that it is urbanizing at a fast rate in its residential areas. In order to regulate and restrict the use of fences and hedges in these areas, it has been found that written regulations must be created to insure the safety, general welfare, aesthetics and to maintain property values for the persons living in these densely developed residential districts.

(c) Fences Defined.

For the purpose of this Ordinance, a "fence" is defined as an enclosed barrier consisting of vegetation, wood, stone or metal intended to prevent ingress or egress. For the purpose of this Ordinance, the term "fence" shall include plantings, such as hedges and shrubbery. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.

(d) Fences Categorized.

Fences shall be categorized into five (5) classifications:

- (1) Lot Line Fence. A fence that is placed on or within the designated setback of the property line of adjacent properties.
- (2) Protective Fence. A fence constructed to enclose a hazard to the public health, safety and welfare.
- (3) Architectural or Aesthetic Fence. A fence constructed to enhance the appearance of the structure or the landscape.
- (4) Hedge. A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.
- (5) Picket Fence. A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.

(e) Fences on Commercial Properties.

Special concerns exist for commercial properties, especially those which abut residentially zoned property. As new commercial structures are erected, the properties on which they exist shall become subject to the following regulations:

- (1) Landscaping Plan. Each owner shall submit a landscaping plan to the Plan Commission. Before any landscaping plan is implemented and before any

building upon or use of the land is made, said landscaping plan must be approved by the Plan Commission. The minimum landscaping plan which may be approved shall include grassy areas. However, when deemed advisable by the Commission, other plantings, such as trees, shrubs or bushes may be required. The Plan Commission shall review said plan with the consideration that the proposed landscaping should:

- (A) Assist in controlling noise;
 - (B) Provide adequate visibility for traffic;
 - (C) Provide proper shielding of parking lots or storage yards; and
 - (D) Be designed to make the area visually compatible with the surrounding neighborhoods and to aesthetically minimize any adverse impact of the industry upon the neighboring community.
- (2) **Front Setback.** The front setback area of the parcel shall not be used for the parking of any owner or employee automobiles, trucks, equipment, or for the storage of any material whatsoever. The front setback area shall be devoted to planting and other landscaping, with the exception of the driveways and sidewalks, and not more than three parking stalls to be reserved for customer parking.
- (3) **Rear Yard Setback.** A distance of 50 feet from residential property shall be maintained at all times.
- (4) **Outside Storage.** Outside storage is prohibited in the front and side yards of the previously-described land. Outside storage is permitted only in the back yard in an area directly behind any building on the parcel and in an area no wider than the building. All outside storage must be screened from view from any public street, or from abutting residential property. The type, density, height and width of screening to be used must first be approved by the Plan Commission.
- (f) **Height of Fences Regulated.**
- (1) Solid fences and walls more than six (6) feet in height shall be considered as buildings, and the appropriate requirements of this Ordinance shall be applied accordingly.
 - (2) In residential subdivision plats, fences, walls, and hedges shall not exceed 3-1/2 feet in height when located in a front yard or in the street side yard of a corner lot.

- (3) No fence, wall hedge or shrubbery shall be erected, placed, maintained or grown along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
 - (4) Lot line fences cannot exceed six feet in height and cannot be forward of the front face of the house, except as provided below.
 - (5) Fences in front yards shall be decorative only; at least 50% of their fence area must be air space and must not be more than 3-1/2 feet in height.
 - (6) Lakeshore residential lots may have boundary fences, parallel to the side lot line. From the front setback line to the street and from the lakeshore facing house building line to the lake, fences may not exceed 3-1/2 feet in height and all other restriction heretofore stated.
 - (7) Fences must be kept in good repair. Decorative sides must face outward. Except in areas where Agricultural land and Residential districts abut, fences may not have barbed wire, razor wire, electric wire, hazardous wire edges or similar materials.
- (g) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (h) **Fences Enclosing Swimming Pools.**
- (1) **Swimming Pool Defined.** For purposes of this section, the term “swimming pool” shall mean any receptacle or artificial pool of water, regardless of temperature, which has at any point a depth of more than two feet, whether above or below the ground, and is used or intended to be used by the owner thereof or invitees for bathing, muscle relaxation or swimming, and includes all structures, appurtenances, equipment, appliances and other facilities appurtenant thereto and intended for the operation and maintenance of the pool. This definition shall include all receptacles commonly referred to as “hot tubs,” “whirlpools,” and “Jacuzzis” unless such pools are covered and locked at all times when not in use by an adult.
 - (2) **Fences Required.** Prior to the time when any water is placed in a swimming pool, the swimming pool shall be surrounded by a security fence that is a minimum of four feet in height. All gates shall be secured when the pool is unattended.
 - (3) **Exception.**
 - (a) A fence shall not be required where the swimming pool is an above ground pool with sides four feet in height or taller. Any pool

ladders shall be removable and be removed when the pool is not in use and steps to decks abutting these pools shall be secured with gates when unattended.

- (b) A fence shall not be required for spas or hot tubs that have hard covers that can be locked in place or swimming pools with power safety covers that meet the standards set forth in ASTM F 1346-91. All such covers shall be put in place and locked when not in use or directly monitored by an adult.

(i) **Fence Maintenance.**

All fences shall be maintained in a neat, sightly manner and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property. The Building Inspector may order the removal of any fence not so maintained or constructed per this Ordinance.

(j) **Temporary Fences.**

Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Ordinance. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days. Temporary snow fences, installed solely for purposes to control wind movement of snow, shall not be required to comply with the provisions of this Ordinance, providing such snow fences are only in place during winter months when snowfall is likely.

(k) **Prohibited Fences.**

No fence shall be constructed which is in a dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from public area.

(l) **Obstructing View.**

No person shall, after the effective date of this Ordinance in any district, construct or maintain a wall, fence, shrubbery or trees on any lot which unreasonably obstructs or interferes with traffic visibility on any curve, hill or intersection. All state and federal highways are hereby designated Class A highways. All County Trunk Highways not designated Class A are hereby designated Class B. All other roads in the Town not designated Class A or B are hereby designated Class C. In each quadrant of every street intersection there shall be designated a visual clearance triangle bounded by the street centerlines and a line connecting them three hundred (300) feet from a Class A highway intersection, two hundred (200) feet from a Class B highway intersection and one hundred fifty (150) feet from a Class C highway intersection. If two (2) highways of different class intersect, the greater distance shall apply to both centerlines. Within this triangle, no object

over two and one-half (2-1/2) feet in height above these streets shall be allowed if it obstructs the view across the triangle. Posts of open fences are excluded from this provision. Tree trunks shall be exempt where they are unbranched to a height of ten (10) feet and located a minimum of thirty (30) feet apart. Agricultural crops and natural growth shall be exempt from this provision, but shall not extend into road rights-of-way.

(m) **Non-Conforming Fences and Hedges.**

Any fence or hedge existing on the effective date of this Ordinance and not in conformance with this Ordinance may be maintained, except where creating a safety hazard. Any alteration, modification or improvement of said fence or hedge shall comply with this Ordinance.

(n) **Severability.**

The various provisions of this Ordinance are deemed severable and it is expressly declared that the Town Board would have passed other provisions hereof irrespective of whether or not one or more provisions may be declared invalid. If any provision or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and application of such provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect.

(o) **Enforcement.**

The Building Inspector or any other law enforcement officer designated by the Town Board shall enforce the Fence Ordinance. Any costs associated in enforcing a non-compliant fence or hedge into conformance will be borne by the property owner. Any costs that are not paid (costs associated with the removal or reconstruction to enforce compliance), they will be placed on the tax roll as a special charge pursuant to Wis. Stats. § 66.0627, including 1-1/2% interest per month against the amount that is outstanding.

History Note: Adopted through 1994 codification; amended 3/25/03; repealed and recreated by Ord. No. 2015-04, 05/26/15.

SECTION 11.41 **SITE PLAN REVIEW****(a) Purpose and Intent.**

This Section provides minimum regulations, provisions and requirements for safe, aesthetically pleasing design and quality standards for improvements to land other than single-family or two-family residential dwellings, agricultural structures, or accessory buildings. Its purpose is to protect and foster public health, safety and welfare. In addition, this Section is intended to encourage commercial, industrial, agriculture, and business development in the Town of Lodi that is consistent with the desire to preserve the rural character of the Town, while providing a diversified tax base to help make the Town more affordable. This Section is implemented under Town authority to promote and protect the public health, safety and welfare; to protect property values and the property tax base; to protect the beauty and amenities of landscapes and developments; to assist in the full implementation of the Town's Comprehensive Plan; and fulfill its vision to preserve productive farmland, precious wetlands, shoreland areas, sheltering woodlands, wildlife habitats, open spaces and scenic views.

(b) Scope of Site Plan Review Authority.

The following developments shall be subject to site plan review:

- (1) Any commercial development, including but not limited to offices, retail, and commercial service.
- (2) Any industrial development, including but not limited to manufacturing, trucking, and warehousing.
- (3) Any multiple family residential developments, including any building with three or more dwelling units.
- (4) Any development of public utility, institutional, or governmental facilities, as may be limited by Wisconsin Statutes.
- (5) Any designated parking area including five or more parking spaces associated with the above developments, or as required by Columbia County.
- (6) Any upgrade or addition or change to the exterior of any of the above developments that results in an increase in the building floor area that is 25 percent or greater than the current floor area.

(c) Site Plan Review Procedure.

- (1) **Application.** Applications for building permits for any construction, expansion or conversion of structures other than single family or two-family residences, agricultural structures or agricultural accessory buildings shall require site plan approval from the Town Board, upon

recommendation of the Plan Commission, in accordance with the requirements of this Section. The applicant shall submit 13 sets of site plans, including specifications of proposed structures, machinery and uses to enable the Town Board, Plan Commission or their expert consultants to determine whether the proposed application meets all requirements applicable to this Section. Applicants may meet with Town staff to review site plan issues prior to the submission of site plans.

(2) **Site Plan Application Submittal Requirements.**

- (A) Site plans shall be prepared in recognized architectural scale. Scale of plan, site size, building area and lot coverage, and north arrow shall be shown. Site plans shall include the area surrounding the proposed development at the same level of detail as the site plan. The site plan shall show the relationship of the proposed development of the site to the surrounding streets, buildings, lots, parking, landscape, topography and any other important features.
- (B) Document title, date prepared, applicable Owner's and Developer's names and addresses noted. Where applicable, names and addresses of all professionals involved in any preparation of the design plans shall be provided.
- (C) Existing and proposed topography shown at a contour interval of not less than two feet indicating proposed grade on a preliminary grading plan and the location of proposed improvements.
- (D) Building and yard setback lines indicated.
- (E) Locate all outdoor lighting proposed to illuminate the site. Provide lighting type and product information.
- (F) Indicate and locate all electrical and other easements on the subject property.
- (G) Locate existing and general location of proposed municipal services and proposed connection locations, if applicable.
- (H) Locate any proposed Storm water management facilities, including retention/ detention areas.
- (I) Identify existing and proposed road names.
- (J) Locate existing and proposed public and private road rights-of-way.
- (K) Show all drives, curb cuts, and ingress/egress locations.

- (L) Identify and show the locations of all driveways on adjoining property within 200 feet of the subject project.
 - (M) Identify parking area and show number of spaces.
 - (N) Show location and type of proposed and existing landscaping plantings and buffer areas for adjoining properties.
 - (O) Show pedestrian sidewalks and walkway locations.
 - (P) Sketch outline of any development phasing plan.
 - (Q) Provide a written project summary including operational information, construction schedule and estimate of project value (including all site improvement costs).
 - (R) Provide building elevations, drawn to scale, showing building materials to be used.
 - (S) List external building materials and note building front design standards identified in this ordinance.
 - (T) Where applicable, 100-year recurrence interval floodplain and floodway shall be indicated.
 - (U) Where applicable, wetlands as delineated in the WDNR Wetland Inventory and a 75 foot setback line from such wetlands shall be shown.
 - (V) When proposed buildings are located within 100 feet of an existing building, the elevation of the existing building shall be included in the site plan at the same scale and level of detail.
 - (W) Where applicable, show Columbia County Shoreland and Wetland Zoning setbacks and restrictions.
- (3) **Administration.**
- (A) Upon requesting a building permit, the Applicant shall be advised by the Town Clerk-Treasurer if a site plan review is required. If required, a copy of this ordinance and a site plan review application shall be provided to the Applicant.
 - (B) The Plan Commission, or its designee, shall make a preliminary review of the application and site plan. This review shall determine if the application is complete. If complete, a report of findings, along with the application and site plan shall be submitted to the Plan Commission, a minimum of one month prior

to the Plan Commission meeting. If incomplete, the Applicant shall be notified and advised of items missing or incomplete. Appearance before the Plan Commission shall not be scheduled unless it has been determined that the application meets all submittal requirements. Within 60 days of receipt of the complete application, the Town Board, acting upon recommendation of the Plan Commission, shall authorize the Building Inspector, or designee, to issue or reject a building permit.

- (C) As a part of the building permit issuance process, the site plan application shall be reviewed by the Plan Commission, which may consult with any professional consultants retained by the Town for such purpose, at Applicant's expense.
 - (D) Upon approval of the application, compliance with all applicable conditions and other Town Ordinances, and execution of a development agreement if required, the Building Inspector, or designee, may issue or reject a building permit.
 - (E) The applicant shall comply with all applicable Town, Sanitary District and Utility District services agreements and escrow account requirements as a condition of review under this Ordinance.
- (4) **Site Plan Review Standards.** In acting on any site plan, the Plan Commission and Town Board shall consider the following:
- (A) The layout of the site with regard to ingress and egress to public streets, the arrangement and improvement of interior traffic patterns, roadways/driveways; the location of areas for parking and for loading and unloading. The traffic pattern shall be designed to minimize traffic hazards.
 - (B) The layout of the site with regard to bicycle and pedestrian accommodation. This shall include the following characteristics:
 - (i) Mixed use buildings shall emphasize pedestrian orientation by utilizing walkways and similar elements.
 - (ii) Pedestrian connections should be provided between buildings and adjoining sites.
 - (iii) Pedestrian connections should be provided between parking areas and buildings.
 - (iv) Mixed use buildings shall incorporate bicycle racks on an improved surface near a primary entrance and be properly lit.

- (C) The adequacy of the proposed water supply, drainage, sanitary and waste disposal services.
 - (D) The landscaping and appearance of the completed site. This shall include requirements for building design and any trees, shrubs, plants or grass lawns, and screening, so as to not impair the value of adjacent properties nor impair the intent of this Section.
 - (E) The adequacy of erosion control and Storm water management approaches.
 - (F) The relationship to the Town Comprehensive Plan, any applicable adopted Town design guidelines Official Map, and other Town ordinances.
 - (G) Any Columbia County ordinances that may apply, including but not limited to zoning, subdivision, and shoreland/wetland regulations.
- (5) **Effects of Public Service.** Prior to approval of the application, the Plan Commission and Town Board may obtain advice from the Building Inspector, professional consultants, or others, including whether development of the property in the manner set forth in the site plan will place additional impacts upon existing municipal services and utilities. Should additional facilities be needed, the Town Board shall not issue the final approval until the Town has entered into an agreement with the applicant regarding the development of such facilities at the Applicant's expense.
- (d) **Site Plan Design Standards.**
- (1) **Grading.** Grading shall:
 - (A) insure a positive drainage consistent with established water runoff patterns in the area;
 - (B) allow for installation and maintenance of appropriate landscape materials;
 - (C) allow for natural topography to be maintained in the development of the site;
 - (D) provide screening of unpleasant views;
 - (E) comply with grading standards identified in Chapters 10 and 11 of this Code of Ordinances, and with other Storm water management and erosion control regulations promulgated by the Town, Columbia County, and the Wisconsin Department of Natural

Resources.

- (2) **Landscaping Standards and Objectives.** Landscape standards recognize the functional importance of, and the public benefits associated with a well-designed landscaped area which enhances landscape features in the visual environment, promotes public safety, moderates the microclimate and reduces nuisances, such as noise and glare. All landscaping shall be in harmony with the community character as described in the Comprehensive Plan, the design of the site and buildings, and the character and uses of adjacent properties. The standards set forth below fulfill those objectives.
- (A) Landscaping Standards.
- (i) **Planting Plan.** Applicants shall have professionally designed a Landscape Planting Plan that most effectively achieves the desired aesthetic results. The Landscape Planting Plan shall show any parking lot tree islands or perimeter plantings, all materials to be planted and list the plant type and size at time of planting and maturity. Plan and landscape material shall be selected and sited to reflect both ornamental and functional characteristics.
 - (ii) **Approved Materials.** The Applicant may use decorative fences, earth berms, ground covers, and existing vegetation and shrubs of a mature height of not less than 2 feet, except for unsuitable species described below. These features shall contribute to the overall landscaping objectives. The scale and nature of landscape materials shall be appropriate to the site and structure and shall be regularly maintained.
 - (iii) **Irrigation.** Irrigation systems shall be designed as not to overspray public walks, paved areas and buildings.
 - (iv) **Existing Trees.** The preservation of desirable existing trees is strongly encouraged, and techniques to preserve them during construction shall be indicated on the Landscape Planting Plan.
 - (v) **Unsuitable Species.** Several shrubs and trees, which are not native to Wisconsin, have an established a history of spreading to nearby parks and conservancy areas. These non-native plants tend to become overly abundant and ultimately eliminate many desirable native species. The control and eradication of these unsuitable plants creates a costly management problem. The following species of plant material are unsuitable for use as landscape plants:

- Honeysuckle (*Lonicera x-bella*, *Lonicera morrowi*, *Lonicera tartarica*)
- Buckthorn (common), *Rhamnus cathartica*
- Tall hedge Buckthorn, *Rhamnus frangula*
- Norway Maple, *Acer platanoides*
- Box elder, *Acer negundo*
- Cottonwood, *Populus deltoids*
- White poplar, *Populus alba*
- Purple loosestrife, *Lythrum salicaria*

(B) Tree Islands and Planted Areas. All landscaped islands within parking lots and landscaped areas with trees shall be a minimum of 4 feet in width as measured from the inside of any curb or frame.

(3) **Screening Standards.**

(A) **Parking Areas.** Parking areas shall be planned and landscaped to provide a screened buffer for the purpose of obstructing light beams and reducing noise nuisances, providing adequately screened spaces for the designated parking use, and blending with the overall desired community appearance.

(i) Landscape buffering shall be provided around:

- a. Perimeters adjacent to public rights-of-way;
- b. Interior areas and immediate perimeters to the parking area; and
- c. Perimeters of lots adjacent to other property.

(B) Off-Street Parking and Loading Areas.

(i) All loading areas, and open off-street parking areas for five or more vehicles, will require the planting of trees. The standards are designed to enhance the visual environment, promote public safety, and reduce nuisances such as noise and glare.

(ii) All off-street vehicular parking areas with five or more vehicles shall be accompanied by the planting of canopy trees at a rate of 1 canopy-type tree for each 10 parking spaces. Canopy trees shall be located in protected tree islands within the parking lot or within 15 feet of the periphery of the parking area surface.

(C) Adjacent Residence Screening. A screened parking barrier for the purpose of obstructing light beams and reducing noise nuisances

shall be provided for sites having off-street parking areas for five or more vehicles within 25 feet of an adjoining lot line facing any lands zoned or used for residential purposes. The parking barrier shall have a minimum height of four feet above the surface of the parking area. Barrier may consist of wood or masonry fencing, walls, a berm, or the use of dense, all-season plant material. Plant materials used for screening shall be of suitable size and density to accomplish the screening objective within three years from the time of planting.

- (D) Industrial and Commercial Parking Lot and Loading Area Buffering. A landscaped parking lot and loading area buffer has the purpose of achieving desired aesthetic and environmental results from both within the interior and along the perimeter of parking areas. This is accomplished by planting perimeter landscaping, and/or tree islands in required parking areas. The following standards apply:
- (i) Buffer the parking area effectively from views from public rights-of-way and public recreation sites.
 - (ii) Comply with landscape requirements in this Section, and reference any design guidelines adopted for the particular part of the Town.
 - (iii) Designs should strive for some level of diversity in utilizing landscape elements. This may include some combination of trees and shrubs, fence and landscape berms.
 - (iv) Plans for parking areas shall indicate snow storage areas.
- (E) Mechanical Equipment, Loading Docks, Storage, Service and Trash Areas. Mechanical equipment, loading docks, outdoor storage areas, service areas, and trash areas shall be screened for the purpose of providing a desirable aesthetic view and reducing loading area noise. Evergreen trees and shrubs, walls with materials related to and compatible with the building, or some combination, shall be used for screening. Outdoor trash bins shall be located within a trash enclosure that is integrated into the overall site and building design.
- (4) **Building Design.** Any new construction or exterior improvement to real property that is within the scope of this Section, and for which application for a building permit is required, shall comply with the following criteria:
- (A) Buildings shall be designed to complement the immediate neighborhood and rural character of the Town.

- (B) Building design shall be of high quality, and shall address requirements stipulated by other Town ordinances and recommendations of adopted design guidelines.
 - (C) Materials shall be of high quality, with low-maintenance materials preferred. For example, this could include brick, native stone, bevel siding or other similar high quality materials.
 - (D) Colors shall be harmonious with other buildings in the neighborhood and/or with the rural setting.
 - (E) Buildings shall have an attractive and obvious front or entrance facade. All facades facing public streets shall be of similar quality.
 - (F) Building facades visible from public streets shall be designed to have no more than 50 feet in length that is unbroken by changes in colors, materials, wall heights, architectural details, and/or window placements. Blank facades shall be prohibited.
 - (G) Building elevations shall be designed to blend with the surrounding natural and built environment.
 - (H) Additions shall relate to the existing building in terms of scale, materials, and color, in order to be visually pleasing and to blend with the natural environment, unless the Town Board determines that certain upgrades are warranted to meet the objectives of the Comprehensive Plan or design guidelines for the area.
 - (I) The architectural design of any outbuilding or accessory structure shall be compatible with the primary building.
 - (J) No building shall have a footprint greater than 5,000 square feet. Footprints up to 7,000 square feet may be approved where landscaping, unique architectural features or other site factors are found to mitigate the visual impact of the building or the character of the surrounding area.
 - (K) No building shall be higher than thirty-five (35) feet as measured by a vertical line drawn from the building's lowest exposed ground level elevation to a point equal in elevation to the building's highest elevation.
- (5) **Building Relationships.**
- (A) New developments shall consider activities on adjacent properties with relationship to access from abutting roads, parking areas, service areas, building setbacks, height of structures, and color and materials of adjacent or nearby buildings.

- (B) In the development of the site, areas with high visibility to residential units shall be landscaped in a manner complementary to the building forms.
 - (C) The relationship of any building to the public street should be completed in a manner that presents a properly located structure. The following standards shall apply to corner lots:
 - (i) Corner lot setbacks can be measured from either street.
 - (ii) Driveway entrances shall be located a maximum distance from the intersection.
 - (iii) For mixed use developments that face a street or driveway intersection, the building should be developed to include a modest articulation of the building mass at the corner, or utilize special architectural features.
 - (D) Building should be oriented with an acceptable face to the street. For water front property, there should be an acceptable face from both the street and the lake.
 - (E) Energy conservation shall be considered in the orientation of buildings with respect to the sun where possible.
 - (F) Buildings shall be oriented to minimize their impact on the adjacent properties.
 - (G) Adjoining properties are encouraged to develop shared facilities such as driveways, parking areas, and pedestrian amenities.
- (6) Maximum Impervious Surface Area Coverage
- (A) Impervious surface area shall be limited to 50% of the total lot area.
 - (B) Impervious surface shall include the building foot prints, driveway, and any of the hard surface area on the site.
 - (C) Use of permeable surfaces are encouraged (pavers, porous asphalt, etc.) and if used, will not be included in the impervious surface calculations.
 - (D) Outbuildings factor into the determination of impervious surface area calculations.

(7) **Lighting.**

- (A) Exterior illumination shall be provided, as appropriate, to illuminate building facades, illuminate building identification signage if desired, ensure safety of the property, illuminate parking and service areas, and minimize light spill over onto adjacent properties, the public right-of-way, navigable waters, and the night sky.
- (B) Deflective lighting styles (90 degree downcast, cutoff fixtures) shall be utilized to avoid light shining onto neighboring property, public rights of way, navigable waters, and the night sky.
- (C) Illumination should achieve a lighting level of 1 foot candle at entries and parking areas unless located adjacent to a property line. Exterior lights shall not have more than 0.5 footcandle intensity at the property lines.
- (D) Illumination shall be the minimum necessary to meet security and safety considerations of the property or to illuminate signage, parking or service areas during the hours of usage but not create a nuisance for adjoining property owners.
- (E) Mercury vapor lamps and metal halide lamps using mercury shall not be used unless a variance is requested due to requirements for accurate color rendition. Fully shielded fixtures shall be used.
- (F) The height of the luminaries shall be in scale with the building and site design and in no case shall exceed the height of 18 feet.
- (G) No outdoor signage shall be permitted that blinks, revolves, flashes, or changes intensity.

(8) **Utilities and Storm Water.**

- (A) It shall be the goal of the Town to eliminate overhead wiring within the Town. New development and major additions shall make provision for underground service.
- (B) All development shall connect to the public sanitary sewer and water system, if present.
- (C) In all developments, utility cabinets and meters shall be screened using appropriate materials that do not detract from the aesthetic appearance of nearby structures.
- (D) Storm water runoff to lakes and streams shall not be directly discharged but must be detained by means of rain gardens,

infiltration areas, and bioswales or detention basins.

- (E) Storm water appurtances shall be integrated into the site landscape.
- (F) Ground mounted television and satellite receivers shall be screened.

(9) Driveways.

- (A) All driveways shall conform to the Town driveway standards.
- (B) Driveways shall be combined between adjoining parcels whenever possible.
- (C) Driveways that are constructed of permeable hard surface including pavers, porous pavement and other permeable materials, shall be exempt from the impervious surface area computations.
- (D) Clear vision triangles shall be maintained for safe ingress and egress.

(10) Signage.

- (A) Signs shall conform to Columbia County standards where not specifically overwritten by this section.
- (B) The primary purpose of a sign shall be to identify a business located at a specific site. The sign's message should be limited to the business name or the logo of the business occupying the site.
- (C) Sign design should conform to the architectural character of the building.
- (D) Signs shall not be permitted on top of any roof and should not project above the eave line of the building.
- (E) Any signs on awnings shall be directly applied to the awning.
- (F) Multiple tenant buildings and complexes shall develop a Master Sign Program for the entire development.
- (G) No outdoor signage shall be permitted that blinks, revolves, flashes, or changes intensity.

(11) Parking.

- (A) All parking shall be provided off-street.
- (B) Building parking design shall maximize opportunities for

pedestrian and vehicular circulation between adjacent sites such as joint access easements and common driveways.

- (C) Parking shall be integrated within the project and visually de-emphasized.
- (D) Surface parking areas facing a public street shall be buffered by landscaping.
- (E) Parking design shall maximize the opportunity for shared parking, access entries, and driveways in order to minimize the number of curb cuts.

(e) **Administration and Enforcement.**

- (1) **Variances.** Variances may be recommended by the Plan Commission and approved by the Town Board where literal compliance with the specifications and standards would be ineffective or unnecessary. Topographic constraints, existing vegetation, existing buildings, traffic safety, or compliance with fire or other public safety requirements or other similar issues may also necessitate variances. The Applicant shall address the following criteria when requesting a variance:

- (A) The specific conditions that are unique to the Applicant's site that do not exist on other land.
- (B) The manner in which the strict application of the standards of this Ordinance would deprive the Applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners.
- (C) Reasons that a variance to the standard would preserve not harm the public safety and welfare and not alter the essential aesthetics of the area.

(2) **Fees.**

- (A) Amount. The fee for review of the design review application shall be \$125.00. The fee shall be paid at the time of submission of the application.
- (B) Reimbursements. The applicant shall reimburse the Town for its actual cost for consulting fees and disbursements associated with the review of the proposed project, including but not limited to review by the consulting engineer, planning consultant and legal counsel. If the applicant is not the owner of the subject property, a deposit of \$800 shall be made with the Town Treasurer to be held in escrow to be drawn upon as the Town incurs the expenses. If

necessary, the escrow shall be replenished if the review expenses exceed or are likely to exceed the remaining amount. Unpaid consultant expenses incurred in reviewing owner applications shall be collected as a special charge pursuant to Wis. Stats. §66.0627.

(3) **Penalties.** Any person violating any provision of this Section shall, upon conviction, pay penalties in accordance with Section 1.21 of the Lodi Municipal Code. Each day a violation continues shall be deemed a separate violation. Nothing herein shall preclude the Town from maintaining a separate action to prevent, abate, or remove violations.

(4) **Development Agreement.** To assure that the approved plans, terms, and conditions of site plan approval will be met, the Town Board may require the Applicant and/or property owner to enter into a development agreement with the Town that specifies responsibilities. Such agreement shall be signed and executed prior to the issuance of a building permit.

(5) **Severability.** The provisions of this Section shall be deemed severable, and it is expressly declared that the Town Board would have passed the other provisions of this Section irrespective of whether or not one or more provisions may be declared invalid. If any provision of this Section or the application thereof to any person or circumstances is held invalid, the remainder of the Section and the application of such provisions to other persons or circumstances shall not be affected thereby.”

History Note: Adopted effective September 28, 1999; amended by Ord. No. 2009-22 on 09/29/09 and reformatted by 2015 recodification.

SECTION 11.51 **OFFICIAL MAP****(a)** **Intent**

It is the intent of the Town Board to establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness, and general welfare of the community; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to ensure proper legal descriptions and proper monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds, and storm water drainage; and to facilitate the further subdivision of large tracts into smaller parcels of land.

(b) **Authority**

This Ordinance is enacted under the authority granted by Wis. Stats. § 62.23(6).

(c) **Official Map**

There is hereby established, as the Official Map of the Town of Lodi, the Map which accompanies and is made a part of this Ordinance bearing the date of May 30, 2005. This map is hereby designated as the “Official Map of the Town of Lodi” and all notations, references, and other information shown thereon shall be as much a part of this Ordinance as though the matters and information thereon were fully described herein. The Official Map shall show the location and extent of all platted and existing streets, highways, drainageways, parkways, parks and playgrounds, airports and airport affected areas, and historic districts within the corporate limits of the Town of Lodi as theretofore laid out, adopted and established by law, except the drainageways outside the Town limits shall not be included on the Official Map.

(d) **Change and Additions**

- (1) The Town Board may change or add to the Official Map so as to establish the exterior lines of, widen, narrow, extend, or close any platted, existing, proposed, or planned streets, highways, drainageways, parkways, and parks or playgrounds, except that drainageways outside the Town limits shall not be included on the Official Map.
- (2) The Town Board shall refer any change or addition to the Official Map to the Town Plan Commission for review and report thereon prior to adoption. The Town Plan Commission shall report its recommendation to the Town Board within 60 days.
- (3) A public hearing of parties in interest and citizens before the Town Board shall be required before any changes or additions to the Official Map are effective. Notice of the public hearing shall be published as a Class 2 notice pursuant to Chapter 985 of the Wisconsin Statutes.
- (4) Changes and additions made by duly approved subdivision plats shall not require a public hearing if the change or additions do not affect any land outside the area being platted.

(e) **Building Permits**

- (1) For the purpose of preserving the integrity of the Official Map, no building permit shall hereafter be issued for any building in the bed of any existing or proposed street, highway, drainageway, or parkway shown on the Official Map. No permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure has been duly placed on the Map.
- (2) The Town Building Inspector may require each applicant for a building permit to submit a plan, prepared and certified by a registered land surveyor, showing accurately the location of any proposed building with reference to any street, drainageway, or parkway shown on the Official Map.

(f) **Municipal Improvements**

No public sewer or other municipal street utility or improvement shall be constructed in any street, highway, or parkway within the jurisdictional area of this Ordinance until such street, highway, or parkway is duly placed on the Official Map.

(g) **Appeals**

The Plan Commission shall have the power to review any administrative decision of the Town Building Inspector to deny a permit for the erection of a structure under this Ordinance and to grant relief from the requirements of this Ordinance under the provisions of Wis. Stats. §§ 62.23(6)(e),(f), and (g).

(h) **Certified Copy of Map**

There shall be a certified copy of the Official Map described in Section 5.00. The certified copy shall be kept in the office of the Town Clerk-Treasurer, and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Ordinance and shall show the date of adoption of this Ordinance and shall be signed by the Town Chair and countersigned by the Town Clerk-Treasurer. Thereafter no change or addition to such Official Map shall become effective until it shall have been indicated by the appropriate convention on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Town Chair and countersigned by the Town Clerk-Treasurer.

(i) **Map to Be Filed with Register of Deeds**

Upon adoption of the Official Map or any amendment thereto, the Town Clerk-Treasurer shall immediately record a true copy of the Official Map, as adopted or amended, with the Register of Deeds of the County of Columbia, Wisconsin.

(j) Enforcement

The Town Building Inspector shall enforce the provisions of this Ordinance.

(k) Penalties

- (1) Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, be subject to a forfeiture as set forth in Section 1.21 of this Code.
- (2) No damages shall be allowed for the taking by any governmental agency, for street, highway, drainageway, or parkway purposes, any building erected in violation of this Ordinance.

(l) Severability

If any section or part of this Ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. All other ordinances or parts of ordinances of the Town inconsistent with this Ordinance to the extent of the inconsistency only are hereby repealed.

History Note: Subchapter 5, Official Map, created by Ordinance adopted 5/31/05; amended through codification; entire Chapter reformatted during 2015 recodification.

4821-0135-6166, v. 1