

Chapter 10 BUILDING AND BUILDING REGULATIONS

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Article I. In General

Sec. 10-1. Penalties.

Except as otherwise provided herein, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.

(Code 1982, § 14.15)

Secs. 10-2—10-30. Reserved.

Article II. Administration

Cross reference— Administration, ch. 2.

Division 1. Generally

Secs. 10-31—10-50. Reserved.

Division 2. Department of Buildings

Sec. 10-51. Department established.

There is established a department which shall be known as the department of buildings, and which shall include an inspector or inspectors and such employees as the village board may from time to time provide to supervise the construction of buildings and permanent equipment of buildings.

(Code 1982, § 14.01(1))

Sec. 10-52. Appointment of inspectors.

The village board shall appoint the following inspectors. Each inspector shall serve for a term of one year or until his successor is appointed and qualified.

- (1) Building inspector.
- (2) Plumbing inspector.
- (3) Electrical inspector.

(Code 1982, § 14.01(2))

Sec. 10-53. Compensation of inspectors.

Each inspector shall receive as compensation the fees as provided by resolution in this chapter. All supplies necessary for the office of inspector shall be furnished by the village.
(Code 1982, § 14.01(3))

Sec. 10-54. Deputy inspector.

In case of the absence or the inability of an inspector to act, the village board may appoint a deputy inspector who shall have the same powers as the inspector.
(Code 1982, § 14.01(4))

Cross reference— Officers and employees, § 2-111 et seq.

Sec. 10-55. Supervision.

Inspectors shall have the necessary ability to supervise the general construction of buildings and permanent equipment of buildings. The village board may at any time remove such inspector, inspectors or employees for inefficiency, neglect of duties or malfeasance in office upon due notice and hearing.
(Code 1982, § 14.01(5))

Sec. 10-56. Enforcement.

Inspectors shall have, except where otherwise provided in this chapter, the general management and control of all matters pertaining to the department of buildings, and shall enforce all state laws and ordinances and lawful orders relating to the construction, alteration, repair, removal and safety of buildings and other structures and permanent building equipment.
(Code 1982, § 14.01(6))

Sec. 10-57. Power of inspectors.

The inspectors shall have full power to pass upon any question arising under the provisions of this chapter relating to buildings, permanent equipment of buildings, seepage beds, septic tanks and wells subject to conditions contained in this chapter.
(Code 1982, § 14.01(7))

Sec. 10-58. Records and reports.

Each inspector shall keep a record of all applications for permits in a book for such purpose and regularly number each permit in the order of issuance and keep a record showing the number, description and size of all buildings erected during his term of office, indicating the kind of materials used and the cost of each building and the aggregate cost of all buildings of the various classes. Each inspector shall keep a record of all inspections made and of all removal and condemnation of buildings and a record of all fees collected by him. Each inspector shall make an annual report to the village board on the matters outlined in this section.
(Code 1982, § 14.01(8))

Sec. 10-59. Authority of inspectors.

The inspectors shall have the power and authority at all reasonable times for any proper purpose to enter upon any public or private premises and make inspection thereof and to require the production of the permit for any building, electrical or plumbing work or the required license therefor. Any person interfering with an inspector while in the performance of the duties prescribed in this chapter shall be subject to a penalty as provided in section 1-14.

(Code 1982, § 14.01(9))

Secs. 10-60—10-90. Reserved.

Article III. Building Code

State Law reference— State building code, Wis. Stats. § 101.60 et seq.; state plumbing code, Wis. Stats. Ch. 145.

Division 1. Generally

Sec. 10-91. Compliance with state building code.

- (a) All construction work in the village shall be done in accordance with the requirements of the building code issued by the department of commerce and the requirements set forth in this chapter.
- (b) Plumbing, piping and fitting installed in any building erected in the village shall comply with the state plumbing code.
- (c) Electric wiring, including electric service wiring, fixtures and outlets installed in or in connection with any building erected in the village shall be done in accordance with the state electric wiring code and the further regulations and requirements of the building code issued by the department of commerce.

(Code 1982, § 14.02)

Sec. 10-92. Title.

This article shall be known as the "Building, Plumbing and Electrical Code of the Village of Yorkville" and shall be referred to in this chapter as "this code."

(Code 1982, § 14.03(1))

Sec. 10-93. Purpose.

In order to promote the public health, safety, morals and general welfare of the citizens of the village there are provided by this code certain minimum standards, provisions and requirements for the safe and stable design, methods of construction and uses of materials in buildings and

structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished and to regulate the equipment, maintenance, use and occupancy of all buildings or structures, except as excepted in this article.
(Code 1982, § 14.03(2))

Sec. 10-94. Scope.

This code shall apply to any buildings or structures hereafter erected in the village and they shall conform to all requirements of this code, except that this code shall not apply to farm out-buildings erected or structurally altered on any farm which comprises an area of at least 20 acres. If the land comprising the farm is less than 20 acres, the provisions of this code shall apply.
(Code 1982, § 14.03(3))

Sec. 10-95. Provisions supplemental; conflicts.

The provisions of this code shall supplement all laws of the state relating to buildings. Where requirements of the state code and the provisions of this code conflict, the requirements of the state code shall govern.
(Code 1982, § 14.03(4))

Sec. 10-96. Application to existing buildings, major alterations and repairs.

The following specified requirements shall apply to existing buildings, except those excluded in the preceding section, which for any reason do not conform to the requirements of this code for new buildings.

- (1) *Alterations or repairs.* If alterations or repairs in excess of 50 percent of the value of an existing building are made to any existing building within any period of 12 months, the entire building shall be made to conform with the requirements given in this article for new buildings; provided, however, that any existing building which for any reason requires repairs in excess of 50 percent of the value thereof, not deducting from such value any loss caused by fire or any other reason, shall be made to conform to the requirements of this code for new buildings or shall be entirely demolished.
- (2) *Changed use.* If the existing use or occupancy of an existing building is changed to a use or occupancy which would not be permitted in a similar building hereafter erected, the entire building shall conform with the requirements given in this article for new buildings; provided, however, that if the use or occupancy of only a portion or portions of an existing building is changed, only such portion or portions of the building need be made to comply with such requirements. The building inspector is hereby given authority to approve any change in the use or occupancy of any existing building, even though such building is not made to fully conform to the requirements of this code, when it is obvious that such change in the use or occupancy of the existing building shall not extend or increase any nonconformity or hazards of the building.

- (3) *Minor alterations and repairs.* Every alteration or repair to any structural part or portion of an existing building shall, when deemed necessary in the opinion of the building inspector, be made to conform to the requirements of this code for new buildings. Minor alterations, repairs and changes not covered by the preceding subsections (1) and (2) of this section may be made with the same materials of which the building is constructed; provided not more than 25 percent of the roof covering of any building shall be replaced in any one period of 12 months unless the entire roof covering is made to conform with the requirements of this code for new buildings.

(Code 1982, § 14.03(5))

Sec. 10-97. Maintenance.

- (a) The requirements of this code covering the maintenance of buildings shall apply to all buildings and structures now existing or hereafter erected. All buildings or structures and parts thereof shall be maintained in a safe condition and all devices or safeguards which are required by this code at the erection, alteration or repair of any building shall be maintained in good working order.
- (b) This chapter shall not be construed as permitting the removal or nonmaintenance of any existing devices or safeguards unless authorized in writing by the building inspector.

(Code 1982, § 14.03(6))

Sec. 10-98. Minimum floor areas and foundation requirements for dwellings.

Section 28-88 is incorporated herein by reference as though fully set forth.

(Code 1982, § 14.06)

Sec. 10-99. Violation and penalties.

- (a) No person shall erect, construct, enlarge, alter, repair, move, demolish, convert, equip, use or occupy or maintain any building or structure in the village contrary to or in violation of any provision of this code or cause, permit or suffer such work to be done.
- (b) The issuance or granting of a permit or approval of plans and 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 code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which it authorizes is lawful.
- (c) The issuance of a permit upon plans and specifications shall not prevent the building inspector from thereafter requiring the correction of errors in such plans and specifications or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinances of the village.

- (d) Every permit issued by the building inspector under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 60 days. Before such work can be recommenced, a new permit shall be first obtained and the fee therefor shall be the same amount as that required for the first permit. Any person who feels there are exceptional circumstances justifying consideration of a reduced fee may appeal this requirement to the Village Board. The appeal shall be governed by the procedures set forth in Chapter 2, Article VII.
- (Code 1982, § 14.05(5))

Secs. 10-100—10-120. Reserved.

Division 2. Administration

Cross reference— Administration, ch. 2.

Sec. 10-121. Powers and duties of building inspector.

- (a) The building inspector shall enforce all of the provisions of this code and for such purposes he shall have the powers of a police officer.
- (b) The building inspector or his authorized representative may enter any building or premises for the purpose of inspection or to prevent violation of this code upon presentation of the proper credentials.
- (c) Whenever any building work is being done contrary to the provisions of this code or is being done in an unsafe or dangerous manner, the building inspector may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done and any such person shall immediately stop such work until authorized by the building inspector to proceed with the work.
- (d) Whenever any building or portion thereof is being used or occupied contrary to the provisions of this code, the building inspector shall order use or occupancy discontinued and the building or portion thereof vacated by notice served on any person using or causing such use or occupancy to be continued and such person shall vacate such building or portion within ten days after receipt of such notice or make the building or portion thereof comply with the requirements of this code. However, in the event of an emergency, the provisions of subsection (e) of this section shall apply.
- (e) Any building or portion thereof, including buildings or structures in process of erection, if found to be dangerous to persons or property or unsafe for the purpose for which it is being used or in danger from fire due to defects in construction, or dangerous for use because of insufficient means of egress, in case of fire, or which violates the provisions of this code due to the removal, decay, deterioration or the falling off of any thing, appliance, device or requirement originally required by this code, or which has become damaged by the elements of fire to an extent of 50 percent of its value, may be condemned by the building inspector. The building inspector shall serve notice in writing on the owner, reputed owner or person in charge of such building or premises, setting forth what shall be done to make such building safe. The person receiving such notice shall commence

within 48 hours thereafter to make the changes, repairs or alterations set out in such notice and diligently proceed with such work or demolish the building. No such building shall be occupied or used for any purpose after the building inspector serves written notice of its unsafe or dangerous condition until his instructions have been complied with.

- (f) If at the expiration of the time set forth in the first notice, the instructions as stated have not been complied with, a second notice shall be served personally upon the owner, agent or the person in possession, charge or control of such building or structure or part thereof, stating therein such precautionary measure as may be necessary or advisable to place such building or structure or part thereof in a safe condition. Should the necessary changes not be made within 30 days after the service of such second notice, the village board may order the building inspector to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the village board who shall cause the costs to be paid and levied as a lien against the property. Proper service of either such notice shall be personal service upon the owner of record if he is in village. If the owner of record is not in village, such service may be had upon any person accustomed to collect rents on the property in question who may be in village, and in the absence of such a person, upon the tenant of the premises. If such premises are vacant and the owner is not in village, such service shall be completed when the notice is sent by registered mail to the last known address of the owner. Whenever the owner, agent or tenant is a corporation, service may be upon the president, vice-president, secretary or treasurer or, in the absence of any of these, the local representative of such corporation.

(Code 1982, § 14.05(1))

Sec. 10-122. Alternate materials and types of construction.

- (a) The provisions of this code are not intended to prevent the use of types of construction or materials offered as an alternative for the types of construction or materials required by this code, but such alternate types of construction or materials to be given consideration shall be offered for approval as specified in this chapter.
- (b) Any person desiring to use types of construction or materials not specifically mentioned in this code shall file with the building inspector authentic proof in support of claims that may be made regarding the sufficiency of such types of construction and materials and request approval and permission for their use.

(Code 1982, § 14.05(2))

Sec. 10-123. Unsafe buildings.

Whenever the building inspector shall find that any building, structure or part thereof is dangerous to life, health or adjoining property by reason of bad condition, defective construction, overloaded floors, decay, lack of guards against fire, general dilapidation or other cause, he shall notify the owner or tenant thereof to cause the condition to be made safe or to be removed, as in the judgment of the building inspector may be necessary; and he shall also affix a notice of such order in a conspicuous place on the outside wall of the building and no person shall remove or deface such notice. The owner or tenant of such building or structure shall thereupon cause the building or structure to be made safe immediately or to be removed as ordered. If any such building is

used for any purposes requiring a license, the building inspector may revoke such license until the building is made safe or removed to the satisfaction of the building inspector. Where the public safety requires immediate action, the building inspector shall enter upon the premises with such assistance as may be necessary and cause the building or structure to be made safe or to be removed and the expenses of such work may be recovered by the village in an action against the owner or tenant. The fire department shall give all reasonable assistance to the building inspector in such work. If the owner or tenant of any such building or structure is dissatisfied with the decision of the building inspector as to the unsafe character thereof, the question shall be referred to the village board whose decision shall be final.

(Code 1982, § 14.05(3))

Sec. 10-124. Appeals.

- (a) Any person whose application for a building permit for the use of a new material or method of construction has been refused by the building inspector or who may consider that the provisions of this code do not cover the point raised or that any particular provision would cause a manifest injury to be done, may appeal to the village board by serving written notice on the building inspector in which it shall be stated that the applicant desiring to use the alternate materials or types of construction shall guarantee payment of all expenses for necessary tests made or ordered by the village board. Such notice shall be at once transmitted to the village board, which shall arrange for a hearing on the particular point raised.
- (b) Such written notice shall be accompanied with the sum of as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution payable to the building inspector. If the appeal is denied, such fees shall be retained by the village. Otherwise, the fee shall be returned to the appellant.

(Code 1982, § 14.05(4))

Secs. 10-125—10-140. Reserved.

Division 3. Permits

Sec. 10-141. Application for permit.

- (a) No person shall erect or construct any building or structure, nor add to, enlarge, move, improve, alter, convert, extend or demolish any building or structure, or cause such work to be done without first obtaining a permit therefor from the building inspector.
- (b) Any person desiring a building permit as required by this code shall file with the building inspector an application therefor in writing on a blank form to be furnished for that purpose.

- (c) Every such application for a permit shall describe the land upon which the proposed building or work is to be done, either by lot, block or tract or similar description that shall readily identify and definitely locate the proposed building or work.
- (d) 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.
- (e) Copies of plans and specifications and a lot plan showing the location of the proposed building and every existing building thereon shall accompany every application for a permit and shall be filed in duplicate with the building inspector. The building inspector may authorize the issuance of a permit without plans or specifications for small or unimportant work. These plans shall be kept on file in the office of the building inspector until the completion of the building. The owner or contractor may have the plans returned to him any time thereafter for a period of two years from date of issuance of the permit. Plans not called for within two years shall be destroyed.
- (f) 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.
- (g) Plans and specifications shall be of sufficient clarity to indicate the nature and character of the work proposed and to show that the law shall 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 or requested by the building inspector.
- (h) Any specifications in which general expressions are used to the effect that "work shall be done in accordance with the building code" or "to the satisfaction of the building inspector" shall be deemed imperfect and incomplete and every reference to this code shall be to the section or subsection applicable to the material to be used or to the method of construction proposed.

(Code 1982, § 14.04(1))

Sec. 10-142. Buildings permits.

- (a) 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 code and all other laws or ordinances applicable thereto the building inspector shall, upon receipt of the required fee, issue a permit therefor.
- (b) When the building inspector issues a permit he 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 officers. Such approved plans and specifications shall not be changed, modified or altered without permission from the building inspector.
- (c) Each inspector is empowered to refuse a permit or permits when the applicant has been guilty of continued or willful violation of the building code.

- (d) A building permit shall lapse and become void if:
- (1) The work is not commenced within four months from the date of issuance;
 - (2) The work is not completed within two years from the date of issuance; or
 - (3) The work is not completed within six months from the issuance of an occupancy permit with respect to the building.

For good cause shown, not due to the fault of the permittee, the building inspector may extend the building permit one time for an additional period, not to exceed six months. Before any work is commenced or recommenced after a building permit has lapsed, a new permit shall be first obtained and the fee therefor shall be the same amount as that required for the first permit. Any person who feels there are exceptional circumstances justifying consideration of a reduced fee may appeal this requirement to the Village Board. The appeal shall be governed by the procedures set forth in Chapter 2, Article VII.

- (e) No person who has obtained a building permit for a building or structure in the village shall allow such building or structure to remain in an unfinished state for a period longer than six months from the time the building permit has lapsed under this section. Any person who has a building or structure in an unfinished state in the village as of the date of adoption of the ordinance from which this subsection is derived shall cause the building or structure to be completed within six months of the adoption of the ordinance from which this subsection is derived, and if not, shall be in violation of this subsection. This subsection shall apply, inter alia, to a person who has been granted permission to occupy a building or structure prior to final completion. For the purposes of this subsection, the term "unfinished state" shall mean a condition not in compliance with the approved building plans or not in compliance with the requirements of the building code.

(Code 1982, § 14.04(2))

Sec. 10-143. Bond.

- (a) Prior to the granting of any building permit for any new residential, commercial, industrial or institutional facilities or structures or for the remodeling of any such existing facilities or structures which in the judgment of the building inspector will require substantial equipment or materials, the applicant shall furnish a bond in the sum as provided in this section and as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution. Such bond shall be in the form of cash or a letter of credit from an institution and in a form acceptable to the village.
- (b) Such bond shall guarantee:
- (1) Any damage occurring during the period of construction to the public road or roads on which the property fronts, including the roadway ditches, shall be repaired and restored to the condition prior to such construction.

- (2) All required culverts and all other required drainage structures or appurtenances are of the required size, gauge, class or length, are properly installed at the required elevations and locations and are in like-new and undamaged condition.
 - (3) All required ditches, swales, drain tiles, drainage easements and waterways located within the involved parcel or within the village road rights-of-way lying adjacent to the involved parcel are graded to the proper gradients and side slopes, lie at the required elevations and locations and are covered with healthy growing grass.
 - (4) All rubbish, debris and unused materials shall be removed from the premises.
- (c) All such work shall be completed as above provided within 120 days after issuance of the occupancy permit with respect to such premises. If such work is not so completed within such 120-day period, the village may cause such work to be completed in accord with this section and may charge the bond for any such costs. The balance of such bond shall be refunded to the applicant. If the bond is inadequate to pay for all such costs, the applicant shall pay such amount to the village on demand. If the applicant fails to pay such amount, the village may impose a special charge against the property pursuant to Wis. Stats. § 66.0703.
- (d) After an occupancy permit is issued by the village building inspector and the four requirements set forth in subsection (b) of this section have been met, the applicant may apply for the refund of the balance of the cash bond or the release of the letter of credit.
- (e) The term "applicant" as used in this section shall be deemed to be the person, partnership or corporation who signs the application for a building permit. The applicant shall be responsible for the duties specified under this section. The applicant may not assign his rights or duties under this section.

(Code 1982, § 14.04(2a))

Sec. 10-144. Fees.

At the time the application for a building permit, or heating-ventilating-air-conditioning permit, or electrical permit or plumbing permit is filed, the applicant shall pay fees as set forth in the schedule of fees on file in the village clerk's office and may be revised by village board resolution.

(Code 1982, § 14.04(3); Ord. No. 2008-01, § 19, 12-22-2008)

Sec. 10-145. Street or road occupancy permit.

- (a) Before placing any stone, brick, sand, dirt, gravel, cement, lumber, planks, boards or other machinery or any hoisting machine, building material, barrels or mortar box upon any sidewalk, street, road or public grounds within the village, a permit shall be first obtained from the building inspector by the party desiring to place such material, machinery, barrel or mortar box upon the sidewalk.

- (b) No fee shall be charged for such permit for the first 15 days following the date of issuance but after the expiration of such 15 days a fee shall be charged as established by resolution of the village board from time to time.
- (c) Such permit shall expire at the end of a reasonable length of time which shall be specified in the permit; upon good cause shown, the building inspector may extend any such permit from time to time as may be reasonably required upon written application made to the building inspector for that purpose.
- (d) Such permit shall not authorize the use of more than one-third of the highway between curblines opposite the premises of the person for whom the proposed building permit is granted or opposite the premises for which such permit is requested and shall not authorize the placing of any such material or machinery within ten feet from the track of any railway within the village, except where the street or road or such portion of the highway is occupied by double track such portion may be occupied as the building inspector may determine can be occupied with safety to the public. No such permit shall be issued where the placing of any such material or machinery or other thing upon the street, road or public ground shall unreasonably interfere with the public safety and convenience or where there is sufficient room for such material or machinery on the same lot or premises which is accessible from any street, alley or road. No more than one-third of the highway between curblines shall in any event be occupied for the placing or storing of any such material, machinery or other thing and no part of the sidewalks, parkway or curb shall be utilized for the placing or storage of building materials.
- (e) All materials placed upon any street, alley or road shall be piled in a compact form and in case of permanently improved streets or roads, there shall be placed a level plank floor under all brick, tile, stone or cement blocks. All accumulations of rubbish upon the sidewalk, street, alley or road shall be cleaned up each day at the close of working hours and also on the expiration of the permit. If construction is completed before the permit expires, then on the completion of the work all material and rubbish of any kind shall be removed and the sidewalk, street, alley or road left in good condition, clean and in good repair.
- (f) The persons to whom any such permit shall be granted shall cause such material or machinery placed in the street, alley or road to be properly guarded by day and each separate pile of material properly guarded by night, lighted by a red light in such manner as to warn all persons traveling upon the sidewalk, street, alley or road of the presence of such material or machinery.
- (g) If any such material or machinery shall not be removed from the street, road, alley or public grounds within the time therein required, the building inspector shall cause such material or machinery to be removed and the cost thereof shall be charged against and collected from the owner of the premises for whose benefit such permit was issued and the person obtaining such permit shall be liable also for the penalty prescribed for a violation of the provisions of this chapter.
- (h) Any material or machinery or other thing placed in a street, road, alley or public grounds shall be removed upon 24-hour notice given by the building inspector where such removal is necessary in order to repair, oil or otherwise improve such street, road, alley or public grounds or to lay water, sewer or other service pipes therein.

- (i) Application for a permit to place material, machinery or other things connected with building purposes in a street, road, alley or public ground shall be in writing and shall describe the premises by lot, block, street and street number, if any, in front of which such material, machinery or other thing connected with building purposes is desired to be placed and shall specify the character of the material for which the permit is desired.
 - (j) Before a permit is granted, the applicant shall execute to the village and deliver to the building inspector a bond of undertaking in a sum as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution with surety or sureties to be approved by the village board conditioned to save the village harmless from all liability which may be incurred by the deposit or maintenance of such material, machinery or other things connected with building purposes in the street, road, alley or public ground by the applicant or by his contractors, servants, agents or employees, whether such material, machinery or other thing shall be placed within or beyond the limit specified by this chapter.
- (Code 1982, § 14.04(4))

Sec. 10-146. Inspection and registered inspectors.

- (a) The building inspector shall inspect or cause to be inspected at various intervals during the erection, construction, enlarging, alteration, repairing, moving, demolition, conversion, occupancy and underpinning, all buildings or structures referred to in this code and in the village and a final inspection shall be made of every building.
- (b) No building construction, alteration, repair or demolition requiring a building permit shall be commenced until the permit holder or his agent shall have posted the building permit card in a conspicuous place on the front of the premises and in such position as to permit the building inspector to conveniently make the required entries thereon, respecting inspection of the work. This permit holder shall maintain this permit card in such position by the permit holder until the building inspector has issued the certificate of occupancy.

(Code 1982, § 14.04(5))

Sec. 10-147. Uniform address signs for houses and buildings.

- (1) *Declaration of policy.* The village board finds that uniform address signs and the uniform location of such signage serves the health, safety, and welfare of the residents of the Village of Yorkville by providing an efficient means for locating properties in the event of a necessary sheriff, fire, or other emergency response, as well as serving the interests of the traveling public.
- (2) *Uniform address signs required.* Uniform signs displaying a parcel's official address and meeting such specifications as are adopted by the board shall be installed on all improved parcels within the village. Such uniform address signs shall be obtained through the village building inspector and shall be installed by the village or its contractors. Except where the installation at such a location would be impossible or incompatible with the policy underlying uniform address signage, such uniform address signs shall be installed approximately fifteen feet to the right (as determined while facing the property from the road) of the driveway in the village's right-of-way, or at such other location as is designated

by the village. In the event that multiple properties are serviced by a single driveway, the village shall install the uniform address signs for such properties in the manner it deems best suited to satisfy the policy underlying this section. After their installation, uniform address signs may not be removed or relocated without the written consent of the village, and each parcel owner shall be responsible for maintaining the parcel's uniform address sign in good and visible condition, including by removing any organic growth that would impede the sign's visibility from the road.

- (3) *Installation of signs for new addresses.* At the time of application for a building permit for a new or previously unimproved parcel, the parcel owner shall apply to the village building inspector for a uniform address sign for such property. At the time of application for a uniform address sign, the building inspector shall collect from the applicant the address sign fee set by the board, reflecting the village's costs of acquiring and installing a new address sign on such parcel. The village shall thereafter install, in conformance with the requirements of subsection (2), a uniform address sign on the property.
- (4) *Replacement of address signs.* Within 20 days after a uniform address sign is stolen, destroyed, or materially damaged (such determination, when in doubt, to be made by the village building inspector), the parcel owner shall apply for a replacement address sign with the village building inspector. The sign shall thereafter be replaced by the village at the parcel owner's expense. If the parcel owner fails to apply for a new sign within 20 days of the sign's removal or destruction, the condition shall constitute a public nuisance and shall be abated as provided in section 22-116.
- (5) *Destruction of address signs.* It shall be unlawful for any person to remove or to intentionally damage, or to intentionally cause to be damaged, any uniform address sign installed under this section. Any person convicted of so doing shall be fined not less than \$100.00, nor more than \$500.00, plus court costs and assessments. Each address sign so damaged shall constitute a separate violation.

(Ord. No. 2006-04, § 1, 6-12-2006)

Secs. 10-148—10-180. Reserved.

Article IV. One- And Two-Family Dwelling Code

State Law reference— One- and two-family dwelling code, Wis. Stats. § 101.60 et seq.

Sec. 10-181. Purpose of article.

The purpose and intent of this article is to:

- (1) Exercise jurisdiction over the construction and inspection of new one-family and two-family dwellings and additions to existing one-family and two-family dwellings.
- (2) Provide plans review and on-site inspections of one-family and two-family dwellings by inspectors certified by the state department of commerce.

- (3) Establish and collect fees to defray administrative and enforcement costs.
- (4) Establish remedies and penalties for violations.
- (5) Establish use of the state uniform building permit as prescribed by the state department of commerce.

(Code 1982, § 14.07(1))

Sec. 10-182. State uniform dwelling code adopted.

The Wisconsin Administrative Code provisions describing and defining regulations with respect to one-family and two-family dwellings in Wis. Admin. Code chs. SPS 320-325 are hereby adopted and by reference made a part of this article as if fully set forth herein. The Wisconsin Administrative Code provisions describing and defining regulations with respect to camping units in Wis. Admin. Code ch. SPS 327 are hereby adopted and by reference made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by a Wisconsin Administrative Code provision incorporated herein by reference is required or prohibited by this article. Any further amendments, revisions or modifications of the Wisconsin Administrative Code provisions incorporated herein are intended to be made part of this article to secure uniform statewide regulation of one-family and two-family dwellings and camping units. A copy of these Wisconsin Administrative Code provisions and any future amendments shall be kept on file in the clerk's office.

(Code 1982, § 14.07(2))

Sec. 10-183. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Addition means new construction performed on a dwelling which increases the outside dimensions of the dwelling.

Alteration means a substantial change or modification other than an addition or minor repair to a dwelling or systems involved within a dwelling.

Department means the state department of commerce.

Dwelling means any building, the initial construction of which is commenced on or after June 9, 1980, which contains one or two dwelling units, an existing structure or that part of an existing structure which is used or intended to be used as a one-family or two-family dwelling.

Dwelling code, uniform, means Wisconsin Administrative Code provisions, and any future amendments, revisions or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code:

SPS 320, Administration and Enforcement
SPS 321, Construction Standards
SPS 322, Energy Conservation

SPS 323, Heating, Ventilating and Air Conditioning
SPS 324, Electrical Standards
SPS 325, Plumbing

Dwelling, one-family or two-family, means a building structure which contains one or two dwelling units, each intended to be used as a home, residence or sleeping place by an individual, or two or more individuals, maintaining a common household to the exclusion of all others.

Minor repair means repair performed for maintenance or replacement purposes on any existing one-family or two-family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways, or exits, fire protection or exterior aesthetic appearance, and which does not increase a given occupancy and use. No building permit is required for work to be performed, which is deemed minor repair.

(Code 1982, § 14.07(3))

Cross reference— Definitions generally, § 1-2.

Sec. 10-184. Method of enforcement.

For the purpose of administering and enforcing the provisions of this article and the uniform dwelling code, the village designates the office of the building inspector created under sections 2-112 through 2-114.

(Code 1982, § 14.07(4))

Sec. 10-185. Administration.

- (a) *Building inspector*. The building inspector shall administer and enforce all provisions of this article and the uniform dwelling code. The building inspector shall be certified for inspection purposes by the department in each of the categories specified under Wis. Admin. Code § SPS 320.06 and by the state department of health and family services in the category of plumbing.
- (b) *Subordinates*. The building inspector may appoint, as necessary, subordinates, which appointments shall be subject to confirmation by the village board. Any subordinate hired to inspect buildings shall be certified under Wis. Admin. Code Ch. 320 by the state department of safety and professional services.
- (c) *Powers*. The building inspector, or an authorized certified agent, may, at all reasonable hours, enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the building inspector or his agent while in the performance of his duties.
- (d) *Records*. The building inspector shall perform all administrative tasks required by the state department of safety and professional services under the uniform dwelling code.

(Code 1982, § 14.07(5))

Sec. 10-186. Building permits.

- (a) *Required.* No one-family or two-family dwelling of which initial construction shall be commenced after June 1, 1980, shall be built, enlarged, altered or repaired unless a building permit for that work shall first be obtained by the owner, or his agent, from the building inspector. Application for a building permit shall be made in writing upon that form, designated as the state uniform dwelling permit application, furnished by the state department of safety and professional services.
- (b) *Repairs and additions.* No addition, alteration or repair to an existing one-family or two-family dwelling not deemed minor repair by the building inspector shall be undertaken unless a building permit for this work shall first be obtained by the owner, or his agent, from the inspector. No permit shall be required for remodeling within the confines of the existing foundation where the fair market value of the improvement does not exceed \$2,000.00. A permit is required if the remodeling has a fair market value in excess of \$2,000.00 or involves an addition to the premises, regardless of value.
- (c) *Submission of plans.* The applicant shall submit two sets of plans for all new construction, or repairs or additions, to one-family and two-family dwellings at the time that the building permit application is filed.
- (d) *Issuance.* If the building inspector finds that the proposed building, or repair or addition, complies with all village ordinances and the uniform dwelling code, the inspector shall officially approve the application and a building permit shall be subsequently issued to the applicant. The issued building permit shall be posted in a conspicuous place at the building site. A copy of any issued building permit shall be kept on file with the building inspector.

(Code 1982, § 14.07(6))

Sec. 10-187. Fees.

Before a building permit is issued, the owner or his agent shall pay to the building inspector the appropriate fees as set forth in section 10-144.

(Code 1982, § 14.07(7))

Sec. 10-188. Violation and penalties.

- (a) No person shall erect, use, occupy or maintain any one-family or two-family dwelling in violation of any provision of this article or the uniform dwelling code, or cause to permit any such violation to be committed. Any person violating any of the provisions of this article shall, upon conviction, be subject to a penalty as provided in section 10-1.
- (b) If an inspection reveals a noncompliance with this article or the uniform dwelling code, the building inspector shall notify the applicant and owner, in writing, of the violation to be corrected. All cited violations shall be corrected within 30 days after written notification unless an extension of time is granted pursuant to Wis. Admin. Code § Comm 20.10(1)(c).
- (c) If, after written notification, the violation is not corrected within 30 days, a stop work order may be served on the owner or his representative and a copy thereof shall be posted at

the construction site. Such stop work order shall not be removed except by written notice of the building inspector after satisfactory evidence has been supplied that the cited violation has been corrected.

- (d) Each day each violation continues after the 30-day written notice period has run shall constitute a separate offense. Nothing in this article shall preclude the village from maintaining any appropriate action to prevent or remove a violation of any provision of this article or the uniform dwelling code.
- (e) If any construction or work governed by the provisions of this article or the uniform dwelling code is commenced prior to the issuance of a permit, double fees shall be charged.

(Code 1982, § 14.07(8))

Sec. 10-189. Appeal to village board.

Any person feeling aggrieved by an order or a determination of the building inspector may appeal from such order or determination to the village board. The appeal shall be governed by the procedures set forth in chapter 2, article VII.

(Code 1982, § 14.07(9))

Sec. 10-190. Liability for damages.

This article shall not be construed as an assumption of liability by the village for damages because of injuries sustained or property destroyed by any defect in any dwelling or equipment.

(Code 1982, § 14.07(10))

Secs. 10-191—10-220. Reserved.

Article V. Electrical Code

Cross reference— Utilities, ch. 54.

Sec. 10-221. Compliance with state electrical.

The provisions of Chapter SPS 316 (Electrical) of the Administrative Code of the State of Wisconsin, as may be amended from time to time, are hereby adopted and, by reference, made a part of this chapter as if fully set forth herein. Any act required to be performed, or prohibited, by said Administrative Code Chapter is required and prohibited by this section as well. In the event of any conflict between any provision of this Chapter, and the Wisconsin Administrative Code, the Administrative Code provision shall control.

Sec. 10-222. Repealed.

Sec. 10-223. Inspection fees.

Fees for inspection of electric wiring or service shall be as follows:

- (1) Each new service installed in a new building shall be \$7.00.
- (2) Each new service installed to replace an existing service or installed in an existing building not now having electrical service shall be \$7.00.

(Code 1982, § 14.09(3))

Secs. 10-224—10-250. Reserved.

Article VI. Plumbing Code

State Law reference— Plumbing code, Wis. Stats. ch. 145

Sec. 10-251. State regulations adopted.

Wis. Stats. ch. 281, the State Plumbing Code, Wis. Admin. Code chs. Comm 81-86 are adopted and by reference made a part of this chapter with the same force and effect as though set out in full. Failure to comply with any of the provisions of such regulations shall constitute a violation of this chapter, punishable according to the penalties provided herein. A copy of the state plumbing code shall be on file in the offices of the plumbing inspector and the village clerk.

(Code 1982, § 14.10(1))

Sec. 10-252. Plumbing defined.

In this article, the term "plumbing" means and includes:

- (1) All piping, fixtures, appliances, equipment, devices and appurtenances in connection with the water supply, water distribution and drainage systems, including hot water storage tanks, water softeners and water heaters connected with such water and drainage systems and the installation thereof.
- (2) The construction, connection or installation of any drain or waste piping system from the outside or proposed outside foundation walls of any building to the mains or other sewerage system terminal within bounds of or beneath an area subject to easement for highway purposes, including private domestic sewage treatment and disposal systems and the alteration of any such systems, drains or waste piping.
- (3) The water service piping from the outside or proposed outside foundation walls of any building to the main or other water utility service terminal within bounds of or beneath an area subject to easement for highway purposes and its connections.

- (4) The water pressure systems other than municipal systems as provided in Wis. Stats. ch. 281.
- (5) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement; to prevent with a margin of safety unequal air pressures of such force as might blow, siphon or affect trap seals or retard the discharge from plumbing fixtures or permit sewer air to escape into the building; to prohibit cross connection, contamination or pollution of the potable water supply and distribution systems; and to provide an adequate supply of water to properly serve, cleanse and operate all fixtures, equipment, appurtenances and appliances served by the plumbing system.

(Code 1982, § 14.10(2))

Cross reference— Definitions generally, § 1-2.

Sec. 10-253. Plumbing inspector.

- (a) *Generally.* The plumbing inspector shall enforce all provisions of this chapter and all other state and village provisions relating to the construction, installation, alteration and repair of all plumbing within the village and shall make such inspections, perform such tests and issue such orders as may be necessary for such enforcement.
- (b) *Authority to enter premises.*
 - (1) In the discharge of his duties, the plumbing inspector or his authorized agent may enter any building, upon presentation of the proper credentials, during reasonable hours for the purpose of inspection and may require the production of any permit or license required under this article. No person shall interfere with the plumbing inspector or his authorized agent while in the performance of his duties; and any person so interfering shall be in violation of this chapter and subject to a penalty as provided by section 1-14.
 - (2) If consent to entry to personal or real properties, which are not public buildings, or to portions of public buildings, which are not open to the public, for inspection purposes has been denied; the plumbing inspector shall obtain a special inspection warrant under Wis. Stats. § 66.0119.
- (c) *Permits.* The plumbing inspector or his authorized agent shall prepare suitable forms for permit applications and permits, shall take applications and issue to qualified applicants permits as required for all work contemplated by this chapter and shall maintain suitable records of the permits issued. The plumbing inspector shall weekly submit permit fees collected by his office to the village clerk.
- (d) *Records and reports.*
 - (1) *To the village board.* The plumbing inspector shall keep in his office a daily record of all the transactions of his office, including permits issued and fees received, and shall make such reports thereon to the village board as it may require.

- (2) *To the department of safety and professional services.* The plumbing inspector shall make such reports to the state department of safety and professional services as are required under Wis. Stats. § 145.04(3).
- (3) *Record of special locations.* The plumbing inspector shall keep a record of all sewer and water connections and shall make maps showing the locations of such sewer and water connections and the positions of all house drains, connections, junctions and other data necessary for the efficient operation of his office.
- (e) *Stop work orders.* The plumbing inspector may order work stopped on the construction, installation, alteration or repair of plumbing when such work is being done in violation of this chapter. Work so stopped shall not be resumed except with written permission of the plumbing inspector, provided if the stop work order is an oral one, it shall be followed by a written order within a reasonable period of time.

(Code 1982, § 14.10(3))

Sec. 10-254. Plumbing permits.

- (a) *Required.* No work contemplated by this chapter shall be started until a permit therefor has been obtained from the plumbing inspector or his authorized agent, provided no permit shall be required for minor repairs to faucets or the removal of stoppages in soil and waste pipes.
- (b) *Application.* The application for a plumbing permit shall be in writing upon forms which the plumbing inspector shall provide and shall include the name of the owner and the description of the property on which the work is to be done, along with such pertinent information as the plumbing inspector may require, and shall state that the property owner and the applicant will be bound by and subject to the provisions of this chapter.
- (c) *Issuance, term, suspension and revocation.* When the plumbing inspector is satisfied that the work proposed by the applicant can be done in conformity with the provisions of this chapter, and after the appropriate fees have been paid to him, he shall issue the permit. Such permit shall be good for the continuous performance of the work named thereon. A permit shall automatically expire when work ceases for a period of 60 days without good and reasonable cause for the cessation of such work and shall automatically expire on completion of the work for which it was issued; provided the plumbing inspector may, upon notice, suspend or revoke such permit for violation of the provisions of this chapter.
- (d) *Restrictions on issuance.*
 - (1) No plumbing permit shall be issued to any person who is in violation of this chapter until such violation has been corrected.
 - (2) No plumbing permit shall be issued to any person against whom an order issued by the plumbing inspector is pending, provided this restriction may be waived by the plumbing inspector.
- (e) *Appeals for failure to issue, suspension and revocation.* Any person directly interested who is aggrieved by the decision of the plumbing inspector to refuse to issue a permit or

to suspend or revoke such permit or to order work stopped under section 10-253(e) may obtain review of such determination under chapter 2, article VII.

- (f) *Fees.* The fees as established from time to time by resolution of the village board shall be paid to the plumbing inspector before the plumbing permit is issued. If plumbing work is begun before the permit has been obtained, double the fees shall be charged.

(Code 1982, § 14.10(4))

Sec. 10-255. Plumbers to be licensed.

All plumbing work shall be done only by a plumber licensed by the state for such work, provided a property owner may make repairs or installations in a single-family building owned and occupied by him as his home if a permit therefor is issued and the work is done in compliance with the provisions of this chapter.

(Code 1982, § 14.10(5))

Sec. 10-256. Registration of plumbers.

- (a) *To be on file.* All master plumbers engaged in the business of plumbing in the village and all journeymen plumbers and apprentice plumbers working at the plumbing trade in the village shall register with the plumbing inspector, who shall keep such registration on file in his office.
- (b) *Information to be supplied.* Such registration shall consist of the full name and address, license number and current receipt number of each master or journeyman licensee. For an apprentice, the year of apprenticeship and the shop to which he is indentured shall be indicated.
- (c) *Registration requirements limited.* The purpose of this section is solely to provide for the administration of state licensing requirements and this chapter. No fee shall be charged for any plumber's registration, nor shall any information other than that specified in subsection (b) of this section be required.

(Code 1982, § 14.10(6))

Secs. 10-257—10-290. Reserved.

Article VI. Moving Buildings

Cross reference— Environment, ch. 22; streets, sidewalks and other public places, ch. 38.

Sec. 10-291. Bond requirement.

Before a permit to move any building is granted by the building inspector, the party applying for the permit shall give a bond in a sum as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution with good and sufficient

securities to be approved by the village board, conditioned among other things that such party shall save and indemnify judgments, costs and expenses which may in any way accrue against the village and keep the village harmless against all liabilities, judgments, costs and expenses in consequence of the granting of such permits.

(Code 1982, § 14.08(1))

Sec. 10-292. Conditions and standards.

Every permit to move a building shall state all conditions to be complied with, designate the route to be taken and limit the time for removal. The removal of a building shall be continuous during all hours of the day, and day by day and at night, if the building inspector so orders, until completed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street or road crossing an intersection or so near thereto as to prevent easy access to any fire hydrant. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night. Any building or structure moved into the village shall be considered as a new building and shall wholly conform to the conditions and restrictions contained in the building code as to square footage and construction in cases of residence buildings or structures, and such buildings moved into the village which are not dwellings or residences shall conform to the building code as to construction detail. All such buildings moved into the village shall conform to the lot area provisions contained in this Code.

(Code 1982, § 14.08(2))

Sec. 10-293. Report of building reaching destination; inspection and repair of streets.

Every person receiving a permit to move a building shall, within one day after such building reaches its destination, report that fact to the building inspector who shall report such information to the village board president. The village board president shall thereupon inspect the streets or roads over which such building had been moved and ascertain their conditions. If the removal of such building has caused any damage to the streets, the house mover shall immediately place such streets in as good repair as they were in before the permit was granted. Upon failure of the house mover to repair the streets within ten days thereafter, to the satisfaction of the village board president, the village board shall repair the damage done to such street or road and hold the sureties of bond given by the house mover responsible for the payment of the bond.

(Code 1982, § 14.10(3))

Secs. 10-294—10-320. Reserved.

Article VIII. Architectural Control

Sec. 10-321. Object and purpose.

The purpose of this article is to promote the public health, safety and general welfare of the citizens of the village by providing regulations concerning architectural requirements pertaining to the exterior design of structures hereafter built, enlarged, altered or demolished within or moved within or into the village and to prohibit structures incompatible with the character of the

surrounding or neighboring structures constructed or being constructed, and to thereby maintain and conserve the taxable value of land and buildings throughout the village and to prevent the depreciation thereof.

(Code 1982, § 14.11(1))

Sec. 10-322. Requirements.

No building permit for any structure for which a building permit is required in this Code shall be issued unless it has been found as a fact by the village plan commission upon a request for determination by the building inspector by at least a majority vote and after a view of the site of the proposed structure and an examination of the application papers for the building permit, that the exterior shall, when erected, not be so at variance with nor so similar to either the exterior architectural appeal and functional plan of the structures already constructed in or in the course of construction in the immediate neighborhood or the character of the applicable district established by the zoning laws in force within the village as to cause a substantial depreciation in the property values of such neighborhood within the applicable district.

(Code 1982, § 14.11(2))

Sec. 10-323. Procedure.

Whenever the building inspector makes a request for a determination, the plan commission shall set a time and place for a hearing on the application giving notice of such hearing, as it may deem sufficient. The plan commission may, if it desires, hear the applicant for the building permit in question or the owner of the lot on which it is proposed to erect or move the structure in question together with any other persons, whether residents or property owners, desiring to be heard. Such hearing may be adjourned from time to time but not for more than 48 hours, and within 48 hours after the close of the hearing the plan commission shall in writing make or refuse to make the finding required by section 10-332. Such finding and determination shall be in writing and signed on behalf of the plan commission by the chairperson and secretary. The secretary shall thereupon file a copy of the findings and determination in the office of the clerk and shall mail a copy of the findings by registered mail to each applicant for such permit on which the plan commission has acted. Thereupon the building inspector shall issue or refuse to issue a building permit in accordance with the determination of the plan commission.

(Code 1982, § 14.11(3))

Sec. 10-324. Appeal.

Any person feeling himself aggrieved by the determination of the plan commission may appeal from such determination to the village board within ten days after written notice shall have been delivered to him, such appeal to be in writing setting forth the basis of the appeal and to be filed with the clerk. Such appeal shall thereupon be heard at the next regular meeting of the village board. On the appeal, in the absence of proof to the contrary adduced before the village board, a refusal to grant the building permit shall be deemed to be based upon facts and supporting the conclusion that the exterior architectural appeal and functional plan erected or moved, will be so at variance with or so similar to the exterior architectural appeal and functional plan of structures already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district, as to cause a substantial depreciation in the property values of such neighborhood within the applicable district. (Code 1982, § 14.11(4))

Secs. 10-325—10-360. Reserved.

Article IX. Construction Site Erosion and Sediment Control

Cross reference— Environment, ch. 22

Sec. 10-361. Authority.

This article is adopted pursuant to the authority granted by Wis. Stats. § 60.627.
(Code 1982, § 12.23(1))

Sec. 10-362. Findings and purpose.

- (a) This article is adopted pursuant to the authority granted by Wis. Stat. § 61.354. Except as otherwise specified in Wis. Stat. § 61.354, Wis. Stat. § 61.35 applies to this article and any amendments to this article.
- (b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the village board.
- (c) The village board hereby designates the village engineer and those village officials and consultants designated by the village administrator to administer and enforce the provisions of this article.

Sec. 10-363. Applicability and jurisdiction.

This article applies to land disturbing construction activity on lands within the boundaries and jurisdiction of the village. Except as provided under 10-364, this article applies to any construction site as defined under section 10-365.

Sec. 10-364. Exemptions.

- (a) This article does not apply to the following:
 - (1) Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.
 - (2) A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
 - (3) Nonpoint discharges from agricultural facilities and practices.

- (4) Nonpoint discharges from silviculture activities.
 - (5) Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 - (6) Activities conducted by a state agency, as defined in Wis. Stat. Section 227.01(1).
 - (7) Land disturbing construction activity affecting a surface area of eight-thousand (8,000) square feet or less or involves the excavation or filling, or a combination of excavation and filling, affecting less than three-hundred (300) cubic yards of dirt, sand, or other excavation or fill material.
- (b) Notwithstanding the applicability requirements in par. (a), this ordinance applies to construction sites of any size that, as determined by the village engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, or that increases water pollution by scouring or transporting of particulate.

Sec. 10-365. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administering Authority means the village engineer, and those village officials and consultants designated by the administrator to administer and enforce the provisions of this article.

Agricultural facilities and practices has the meaning set forth in Wis. Stat. § 281.16(1).

Best management practice (BMP) means structural or nonstructural practices, techniques, measures, facilities, systems of practices or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the Village of Yorkville is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the Village.

Construction site means 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.

Design Storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

Erosion means the process by which the land's surface is worn away by water, wind, ice or gravity.

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

Final stabilization means all land disturbing construction activities at the construction site have been completed 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 employment of equivalent permanent stabilization measures.

Governing body means the village board of trustees.

Land disturbing construction activity means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative 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.

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

Maximum extent practicable (MEP) means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this order as determined in according with section 10-367 of this ordinance.

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the village to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pollutant has the meaning given in Wis. Stat. § 283.01(13).

Pollution has the meaning given in Wis. Stat. § 281.01(10).

Responsible party means the landowner or any other entity performing services to meet the requirements of this article through a contract or other agreement.

Runoff means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

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

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Stop work order means an order issued by the village which requires that all construction activity on the site be stopped.

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

Transportation facility means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under Wis. Stat. Section 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. Stat. Section 281.33.

Waters of the state means those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction (Wis. Stat. § 281.01(18)).

Sec. 10-366. Applicability of maximum extent practicable.

Maximum extent practicable applies when a person who is subject to a performance standard of this article demonstrates to the village engineer’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

Sec. 10-367. Design criteria, standards, and specifications.

All best management practices required to comply with this article shall meet the 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 of chapter NR 151, Wis. Adm. Code.
- (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 village engineer.

Sec. 10-368. Maintenance.

The landowner throughout the duration of the construction activities shall maintain all best management practices necessary to meet the requirements of this article.

Sec. 10-369. Performance standards for construction sites under one acre.

- (a) Responsible Party. The responsible party shall comply with this section.
- (b) 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:
 - (1) The deposition of soil from being tracked onto streets by vehicles.
 - (2) The discharge of sediment from disturbed areas into on-site storm water inlets.
 - (3) The discharge of sediment from disturbed areas into adjacent waters of the state.
 - (4) The discharge of sediment from drainage ways that flow off the site.
 - (5) The discharge of sediment by dewatering activities.
 - (6) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 - (7) 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.
- (c) Location. The BMPs shall be located so that treatment occurs before runoff enters waters of the state.
- (d) Implementation. The BMPs used to comply with this section shall be implemented as follows:
 - (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
 - (2) Erosion and sediment control practices shall be maintained until final stabilization.
 - (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (4) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

Sec. 10-370. Performance Standards for construction sites of one acre or more.

- (a) Responsible Party. The responsible party shall comply with this section and implement the erosion and sediment control plan developed in accordance with section 10-372.
- (b) Erosion and Sediment Control Plan. A written site-specific erosion and sediment control plan shall be developed in accordance with section 10-372 of this ordinance and implemented for each construction site.
- (c) Erosion and Other Pollutant Control Requirements. The erosion and sediment control plan required under par. (2) shall include the following:
 - (1) 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.
 - (2) Sediment performance Standards. In addition to the erosion and sediment control practices under par. (1), the following erosion and sediment control practices shall be employed:

- a. 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.
 - b. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with 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.
 - c. Notwithstanding subd a., 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.
- (3) Preventive Measures. The erosion and sediment control plan shall incorporate all of the following:
- a. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
 - b. Minimization of soil compaction and preservation of topsoil.
 - c. Minimization of land disturbing construction activity on slopes of 20 percent or more.
 - d. Development of spill prevention and response procedures.
- (4) Location. The BMPs used to comply with this section shall be located so that treatment occurs before runoff enters waters of the state.
- (d) Implementation. The BMPs used to comply with this section shall be implemented as follows:
- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in section 10-370(b).
 - (2) Erosion and sediment control practices shall be maintained until final stabilization.
 - (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (4) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

Sec. 10-371. Permitting requirements, procedures and fees.

- (a) Permit Required. No responsible party may commence a land disturbing construction activity subject to this article without receiving prior approval of an erosion and sediment control plan for the site and a permit from the village board.
- (b) 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 10-372, and shall pay an application fee as set forth in the schedule of fees on file in the village clerk's office, which may be revised from time-to-time by resolution of the village board. By submitting an application, the applicant is authorizing the village engineer or designee to enter the site to obtain information required for the review of the erosion and sediment control plan. The village reserves the right to require an additional fee to reimburse the village for engineering-related costs, including costs of inspection not covered by the application fee.
- (c) Permit Application Review and Approval. The village engineer shall review and make recommendations to the village board as to any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
 - (1) Within 45 business days of the receipt of a complete permit application, as required by sub. (2), the village board shall inform the applicant whether the application and erosion and sediment control plan are approved or disapproved based on the requirements of this ordinance.
 - (2) If the permit application and erosion and sediment control plan are approved, the village shall prepare, and the applicant shall sign, a pre-permit reimbursement agreement for the reimbursement of any cost or financial liability created by the responsible party related to the issuance of a permit in excess of the surety bond listed under § 10-371(d). This shall include, but is not limited to, village engineering fees and legal fees.
 - (3) After the completion of the pre-permit reimbursement agreement, the clerk shall issue the permit.
 - (4) If the permit application or erosion and sediment control plan is disapproved, the village board shall state in writing the reasons for disapproval.
 - (5) The village board may request additional information from the applicant. If additional information is submitted, the village board shall have 30 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.

- (d) Surety Bond. As a condition of approval and issuance of the permit, the applicant shall deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion and sediment control plan and any permit conditions to the village in the amount of two-thousand dollars (\$2,000.00).
- (e) Permit Requirements. All permits shall require the responsible party to:
- (1) Notify the administrator within 48 hours of commencing any land disturbing construction activity.
 - (2) Notify the administrator of completion of any BMPs within 14 days after their installation.
 - (3) Obtain permission in writing from the village engineer prior to any modification of the erosion and sediment control plan.
 - (4) Install all BMPs as identified in the approved erosion and sediment control plan.
 - (5) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (6) 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.
 - (7) 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.
 - (8) Allow the Administering Authority 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.
- (f) Permit Conditions. Permits issued under this section may include conditions established by Village Board in addition to the requirements set forth in sub. (e), where needed to assure compliance with the performance standards in section 10-369 or 10-370.
- (g) 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 village board may grant one or more extensions not to exceed 180 days cumulatively. The village engineer may require additional BMPs as a condition of an extension if they are necessary to meet the requirements of this ordinance.

- (h) 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.

Sec. 10-372. Erosion and sediment control plan, statement and amendments.

- (a) Erosion and sediment control plan statement. For each construction site identified under section 10-370(b) an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the clerk. 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.
- (b) Erosion and Sediment Control Plan Requirements.
 - (1) An erosion and sediment control plan shall be prepared and submitted to the clerk.
 - (2) The erosion and sediment control plan shall be designed to meet the performance standards in section 10-369 or 10-370 and other requirements of this ordinance.
 - (3) 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:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. Calculations to show the compliance with the performance standard in section 10-370(c)(2)a.

- f. Existing data describing the surface soil as well as subsoils.
 - g. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
 - h. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (4) 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 100 feet per inch and at a contour interval not to exceed five feet.
- a. 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.
 - b. Boundaries of the construction site.
 - c. Drainage patterns and approximate slopes anticipated after major grading activities.
 - d. Areas of soil disturbance.
 - e. Location of major structural and non-structural controls identified in the erosion and sediment control plan.
 - f. Location of areas where stabilization BMPs will be employed.
 - g. Areas which will be vegetated following land disturbing construction activities.
 - h. 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.
 - i. Areas(s) used for infiltration of post-construction storm water runoff.
 - j. An alphanumeric or equivalent grid overlying the entire construction site map.
- (5) 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:

- a. 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.
 - b. 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 village engineer, structural measures shall be installed on upland soils.
 - c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
 - d. Trapping of sediment in channelized flow.
 - e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
 - f. Protection of downslope drainage inlets where they occur.
 - g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
 - h. Clean up of off-site sediment deposits.
 - i. Proper disposal of building and waste material.
 - j. Stabilization of drainage ways.
 - k. Installation of permanent stabilization practices as soon as possible after final grading.
 - l. Minimization of dust to the maximum extent practicable.
- (6) 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.
- (c) Erosion and Sediment Control Plan Amendments. The applicant shall amend the erosion and sediment control plan if any of the following occur:
- (1) 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.
 - (2) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.

- (3) The village engineer notifies the applicant of changes needed in the erosion and sediment control plan.

Sec. 10-373. Inspection.

- (a) If land disturbing construction activities are being carried out without a permit required by this article, the village personnel may enter the land pursuant to the provisions of Wis. Stat. § 66.0119.
- (b) The Administering Authority shall be permitted access to the property to conduct inspections to enforce this Article as necessary to ascertain that the practices are being maintained and operated in accordance with the ordinances of the Village of Yorkville.

Sec. 10-374. Enforcement.

- (a) The village engineer, or his designee, may post a stop work order if any of the following occurs:
 - (1) Any land disturbing construction activity regulated under this article is being undertaken without a permit.
 - (2) The erosion and sediment control plan is not being implemented in a good faith manner.
 - (3) The conditions of the permit are not being met.
- (b) If the responsible party does not cease activity as required in a stop work order posted under this article or fails to comply with the erosion and sediment control plan or permit conditions within 24 hours of being notified by the village engineer, or designee, the village board may revoke the permit.
- (c) If the landowner where no permit has been issued does not cease the activity within 24 hours of being notified by the village engineer, or his designee, or if a landowner violates a stop work order posted under subsection (a) of this section, the village board may request the village attorney to obtain a cease and desist order in any court with jurisdiction.
- (d) The village board or village engineer may retract the stop work order issued under subsection (a) of this section or the permit revocation under subsection (b) of this section.
- (e) After posting a stop work order under subsection (a) of this section, the village board may issue a notice of intent to the landowner of its intent to perform work necessary to comply with this article. The village may go on the land and commence the work after issuing the notice of intent. The costs of the work performed by the village, plus interest at the rate authorized by the village shall be billed to the landowner. If a landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Wis. Stat. § 66.0627.

- (f) Any person violating any of the provisions of this article shall be subject to a forfeiture of not less than \$25.00 nor more than \$500.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (g) Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction.

Sec. 10-375. Appeals.

Any aggrieved person may seek review of a determination made by the village engineer, under this article, in accordance with chapter 2, article VII.

**Article X.
Post-construction Storm Water Management.**

Sec. 10-376. Authority.

- (a) This Article is adopted by the Village of Yorkville ("Village") under the authority granted by Wis. Stat. § 61.354. Except as otherwise specified in Wis. Stat. § 61.354, § 61.35 applies to this section and to any amendments to this section.
- (b) The provisions of this section are deemed not to limit any other lawful regulatory powers of the Village.
- (c) The Village Board of trustees hereby designates the Village Engineer, and those Village officials and consultants designated by the Administrator, to administer and enforce the provisions of this Article.
- (d) The requirements of this section do not preempt more stringent storm water management requirements that may be imposed by any of the following:
 - (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stat. §§ 281.16 and 283.33.
 - (2) Targeted nonagricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code § NR 151.004.
 - (3) Village of Yorkville approved or adopted storm water management plans and performance standards for specific areas or watersheds including, without limitation, Planning Report Number 44, A Comprehensive Plan for the Des Plaines River Watershed, as published by the Southeastern Wisconsin Regional Planning Commission.

Sec. 10-377. Findings of fact.

The Village finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (a) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (b) 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.
- (c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads. Reduce the quality of groundwater by increasing pollutant loading.
- (d) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

Sec. 10-378. Purpose and intent.

- (a) Purpose. The general purpose of this Article 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:
 - (1) Further the maintenance of safe and healthful conditions.
 - (2) 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.
 - (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter.
 - (4) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.
- (b) Intent. It is the intent of the Village that this Article regulates post-construction storm water discharges to waters of the state. This Article may be applied on a site-by-site basis. The Village recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this section 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. Stat. § 281.16, for regional storm water management measures and have been

approved by the Village Board, it is the intent of this section that the approved plan be used to identify post-construction management measures acceptable for the community.

Sec. 10-379. Ability and jurisdiction.

- (a) Applicability.
 - (1) Except as provided under Subsection 10-379(a)(2), this ordinance applies to a post-construction site whereupon one acre or more of land disturbing construction activity occurs during construction.
 - (2) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance:
 - a. A post-construction site with less than 10% connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of this Article.
 - b. Agricultural facilities and practices.
 - c. Underground utility construction, but not including the construction of any above ground structures associated with utility construction.
 - (3) Notwithstanding the applicability requirements in Subsection 10-379(a)(1), this section applies to post- construction sites of any size that, in the opinion of the Village Engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter.
- (b) Jurisdiction. This section applies to post-construction sites within the boundaries and jurisdiction of the Village of Yorkville.
- (c) Exclusions. This section is not applicable to activities conducted by a state agency, as defined under Wis. Stat. § 227.01(1).

Sec. 10-380. Definitions.

- (1) ADEQUATE SOD, OR SELF-SUSTAINING VEGETATIVE COVER — Maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.
- (2) ADMINISTERING AUTHORITY — The Village Engineer, and those Village officials and consultants designated by the Administrator, to administer and enforce the provisions of this Article.

- (3) AGRICULTURAL FACILITIES AND PRACTICES — Has the meaning given in Wis. Stat. § 281.16.
- (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 is chosen from a department publication for the location closest to the municipality.
- (6) BEST MANAGEMENT PRACTICE or BMP — Structural or nonstructural 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 offices of the Village hall 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 administering authority.
- (9) COMBINED SEWER SYSTEM — A system for conveying both sanitary sewage and storm water runoff.
- (10) 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.
- (11) DESIGN STORM — A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (12) DEVELOPMENT — Residential, commercial, industrial or institutional land uses and associated roads.
- (13) DIRECT CONDUITS TO GROUNDWATER — Wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressionnal groundwater recharge areas over shallow fractured bedrock.
- (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 — The process by which the land's surface is worn away by the action of the 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 three-foot deep layer with at least 20% fines; or at least a five-foot deep layer with at least 10% fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.
- (18) FINAL STABILIZATION — That all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
- (19) FINANCIAL GUARANTEE — A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Village of Yorkville 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 Village Board of trustees.
- (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 sewer 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 nonvegetative 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 Subsection (10-379) of this ordinance.
- (29) NEW DEVELOPMENT — Development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (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) PERCENT FINES — The percentage of a given sample of soil, which passes through a # 200 sieve.
- (36) PERFORMANCE STANDARD — A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (37) PERMIT — A written authorization made by the Village to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (38) PERMIT ADMINISTRATION FEE — A sum of money paid to the Village by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (39) 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.
- (40) POLLUTANT — Has the meaning given in Wis. Stat. § 283.01(13).
- (41) POLLUTION — Has the meaning given in Wis. Stat. § 281.01(10).
- (42) POST-CONSTRUCTION SITE — A construction site following the completion of land disturbing construction activity and final site stabilization.

- (43) 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.
- (44) PREVENTATIVE ACTION LIMIT — Has the meaning given in Wis. Admin. Code § NR 140.05(17).
- (45) 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.
- (46) REDEVELOPMENT — Areas where development is replacing older development.
- (47) RESPONSIBLE PARTY — The landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (48) 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.
- (49) 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.
 - d. Discharges directly or indirectly to waters of the state.
- (50) 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.
- (51) SITE — The entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (52) STOP WORK ORDER — An order issued by the Administering Authority which requires that all construction activity on the site be stopped.
- (53) STORM WATER MANAGEMENT PLAN — A comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.
- (54) STORM WATER MANAGEMENT SYSTEM PLAN — Is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

- (55) TECHNICAL STANDARD — A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (56) 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% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (57) 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.
- (58) 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.
- (59) 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. Stat. § 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. Stat. § 281.33.
- (60) TSS — Total suspended solids.
- (61) WATERS OF THE STATE — Includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

Sec. 10-381. Applicability of maximum extent practicable.

Maximum extent practicable applies when a person who is subject to a performance standard of this Article demonstrates to the Administering Authority'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.

Sec. 10-382. 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 Article:

- (a) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under Wis. Admin. Code Ch. NR 151, Subch. V.
- (b) 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 Administering Authority.
- (c) Technical engineering standards administered and/or approved by the Village of Yorkville.
- (d) In this section, the following year and location has been selected as average annual rainfall: Milwaukee 1969 (Mar. 28 — Dec. 6).

Sec. 10-383. Performance standards.

- (a) Responsible party. The responsible party shall comply with this section.
- (b) Storm Water Management Plan. A written storm water management plan in accordance with Subsection (i) shall be developed and implemented for each post-construction site.
- (c) Maintenance of effort. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this Article, whichever is more stringent.
- (d) Requirements. The storm water management plan required under Subsection 10-383(b) shall include the following:
 - (1) Total suspended solids. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
 - a. BMPs shall be designed in accordance with Table 1 or to the maximum extent practicable as provided in Subsection 10-383(d)(1)b. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

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

- b. Maximum extent practicable. If the design cannot meet a total suspended solids reduction performance standard of Table 1, the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.
- c. 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.

(2) Peak discharge.

- a. By design, BMP's for all areas outside of the Des Plaines River Watershed shall be employed to maintain or reduce the one-year, twenty-four-hour; and the two-year, twenty-four-hour post-construction peak runoff discharge rates to the one-year, twenty- four-hour; and the two-year, twenty-four-hour pre- development peak runoff discharge rates respectively and shall be employed to reduce the 100-year, twenty- four-hour, post-construction runoff rate to the ten- year, twenty-four-hour, pre-development runoff rate, or to the maximum extent practicable. Storm water management practices within the Des Plaines River Watershed shall be employed to reduce the 100-year, twenty-four-hour, post-construction rate to 0.3 cfs per acre. The post-construction two-year, twenty-four- hour, rate shall be reduced to 0.04 cfs per acre. The runoff curve numbers in Table 2 shall be used to represent the actual pre-development conditions. Peak discharges shall be calculated using TR-55 runoff curve number methodology, NRCS Racine County representative Altas 14 precipitation depths and NRCS MSE3 precipitation distribution.

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

- b. By design, storm water management practices shall be employed to meet peak discharge requirements of Village adopted storm water management plans for specific areas or watersheds where applicable.
- c. This Subsection 10-383(d)(1)b does not apply to any of the following:
 - 1. 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.
 - 2. Except as provided in 10-383(c), a redevelopment post-construction site, if the impervious surface area of the redevelopment is not increased from existing conditions.
 - 3. An in-fill development area less than five acres, unless determined otherwise by the Village per Subsection 10-379(a)(3).

(3) Infiltration.

- a. 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% 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% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the post-construction site is required as an effective infiltration area.
 - 2. Moderate imperviousness. For development with more than 40% and up to 80% 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% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the post-construction site is required as an effective infiltration area.
 - 3. High imperviousness. For development with more than 80% 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% of the predevelopment infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of

the post- construction site is required as an effective infiltration area.

- b. Pre-development. The pre-development condition shall be the same as specified in Table 2 of the Peak Discharge section of this ordinance.
- c. 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 Subsection 10-383(d)(3)f:
 - [a] Areas associated with a tier one industrial facility identified in s. NR 216.21 (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 s. 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 par a.
 - [c] Except as provided under Subsection 10-383(c), redevelopment post-construction sites.
 - [d] In-fill development areas less than five acres.
 - [e] Roads on commercial, industrial and institutional land uses, and arterial residential roads.
- d. Location of practices.
 - 1. Prohibitions. Infiltration practices may not be located in the following areas:
 - [a] Areas within 1,000 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 s. NR 811.16(4) or within the separation distances listed in s. NR 812.08 for any private well or noncommunity 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 s. 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 3:

Table 3. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

- [b] Notwithstanding Subsection 10-383(d)(3)d.2., applicable requirements for injection wells classified under Ch. NR 815 shall be followed.

- [c] Infiltration rate exemptions. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:
 - [i] Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
 - [ii] Where the least permeable soil horizon to five 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.
- e. Alternate use. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, 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.
- f. Groundwater standards.
 - 1. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
 - 2. Notwithstanding Subsection 10-383(d)(3)f.1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- g. 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 Subsection 10-383(d)(3)f. Pretreatment options may include, but are not limited, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- h. Maximum Extent Practicable. Where the conditions of Subsection 10-383(d)(3)c and d limit or restrict the use of infiltration practices, the

performance standard of Subsection 10-383(d)(3) shall be met to the maximum extent practicable.

- (4) Protective areas. The following are minimum standards for protective areas; however, the Village may impose greater limits based on site specific information:
- a. 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.
 1. For outstanding resource waters and exceptional resource waters, 75 feet.
 2. 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.
 3. For lakes, 50 feet.
 4. For wetlands not subject to Subsection 10-383(d)(4)a.5. or 6., 50 feet.
 5. 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.
 6. For less susceptible wetlands, 10% 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.
 7. In Subsection 10-383(d)(4)a.4. to 6., 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 s. NR 103.03.
 8. Wetland boundary delineation shall be made in accordance with s. 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.

9. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
 10. Notwithstanding Subsection 10-383(d)(4)a.1. to 9., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.
- b. Applicability. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to Subsection 10-383(d)(4)d.
- c. Requirements. The following requirements shall be met:
1. 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.
 2. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.
 3. 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.
- d. Exemptions. This section does not apply to any of the following:
1. Except as provided under sec. 10-383(c), redevelopment post-construction sites.
 2. In-fill development areas less than five acres.
 3. Structures that cross or access surface water such as boat landings, bridges, and culverts.
 4. Structures constructed in accordance with s. 59.692 (1v), Stats.
 5. 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.

- e. Fueling and vehicle 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.
- f. Swale treatment for transportation facilities.
 - 1. Requirement. Except as provided in Subsection 10-383(d)(6)b., transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of local ordinance requirements for peak flow control, total suspended solids control, and infiltration, if the swales are designed to do all of the following or to the maximum extent practicable:
 - [a] Swales shall be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 - [b] Swales shall comply with Sections V.D. (Velocity and Depth) and V.E. (Swale Geometry Criteria) with a swale pre-treatment length as long as that specified in Section V.H. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Swale", dated December 2017, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.
 - 2. Other requirements.
 - [a] Notwithstanding Subsection 10-383(d)(6)a., the Administering Authority may, consistent with water quality standards, require that other requirements, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2,500 and where the initial surface water of the state that the runoff directly enters is one of the following:
 - [i] An outstanding resource water.
 - [ii] An exceptional resource water.
 - [iii] Waters listed in Section 303 (d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to non-point source impacts.

[iv] Water where targeted performance standards are developed pursuant to s. NR 151.004, Wis. Adm. Code.

[b] The transportation facility authority shall contact the administering authority to determine if additional BMPs beyond a water quality swale are needed under this subsection.

g. Storm sewers and culverts.

1. Storm sewers and culverts shall be designed for a ten- year storm event as defined by the Southeastern Wisconsin Regional Planning Commission (SEWRPC).
2. Storm sewers shall be designed to be self-cleaning with a minimum velocity of two feet per second and a maximum velocity of 12 feet per second.

(5) General considerations for storm water management measures. The following considerations shall be observed in on-site and off-site runoff management:

- a. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
- b. Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(6) BMP Location.

- a. To comply with the performance standards required under sec. 10-383 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 s. NR 151.003, Wis. Adm. Code.
- b. The administering authority may approve off-site management measures provided that all of the following conditions are met:
 1. The administrating authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Village of Yorkville and that contains management requirements consistent with the purpose and intent of this ordinance.
 2. The off-site facility meets all of the following conditions:

[a] The facility is in place.

[b] The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on- site practices meeting the performance standards of this ordinance.

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

3. Where a regional treatment option exists such that the Village Board exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Village Board. In determining the fee for post- construction runoff, the administering authority shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(7) Additional Requirements. The Administering Authority may establish storm water management requirements more stringent than those set forth in this ordinance if the Administering Authority 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.

Sec. 10-384. Permitting requirements, procedures and fees.

(a) Permit required. No responsible party may undertake a land disturbing construction activity without receiving a post- construction runoff permit from the Village of Yorkville prior to commencing the proposed activity.

(b) Permit application and fees. Unless specifically excluded by this section, any responsible party desiring a permit shall submit to the Village of Yorkville a permit application made on a form provided by the Village of Yorkville for that purpose.

(1) Unless otherwise excepted by this section, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a nonrefundable permit administration fee.

(2) The storm water management plan shall be prepared to meet the requirements of Subsections 10-383 and 10-385, the maintenance agreement shall be prepared to meet the requirements of Subsection 10-386, the financial guarantee shall meet the requirements of Subsection 10-387, and fees shall be those established by the Village of Yorkville as set forth in Subsection 10-388.

(c) Review and approval of permit application. The Administering Authority 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:

(1) Within 45 business days of the receipt of a complete permit application, including all items as required by Subsection 10-384(b), above, the Village of Yorkville shall

inform the applicant whether the application, plan, and maintenance agreement are approved or disapproved based on the requirements of this section.

- (2) If the storm water permit application, plan, and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Village of Yorkville shall prepare, and the applicant shall sign, a pre-permit reimbursement agreement for the reimbursement of any cost or financial liability created by the responsible party related to the issuance of a permit in excess of any financial guarantee listed under § 10-389. This shall include, but is not limited to, village engineering fees and legal fees.
 - (3) Once a pre-permit reimbursement agreement is signed, the Village of Yorkville shall issue the permit.
 - (4) If the storm water permit application, plan or maintenance agreement is disapproved, the Village of Yorkville shall detail in writing the reasons for disapproval.
 - (5) The Administering Authority may request additional information from the applicant. If additional information is submitted, the Village of Yorkville shall have 45 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - (6) Failure by the Village of Yorkville to inform the permit applicant of a decision within 60 business days of a required submittal, provided all information required by the Administering Authority has been received, shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (d) Permit requirements. All permits issued under this section shall be subject to the following conditions, and holders of permits issued under this section shall be deemed to have accepted these conditions. The Village of Yorkville may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Village of Yorkville to suspend or revoke this permit may be appealed in accordance with Subsection (10-390).
- (1) 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.
 - (2) The responsible party shall design and install all structural and nonstructural storm water management measures in accordance with the approved storm water management plan and this permit.
 - (3) The responsible party shall notify the Village of Yorkville at least five business days before commencing any work in conjunction with the storm water management plan, and within five business days upon completion of the storm water management practices. If required as a special condition under Subsection 10-384(e) below, the responsible party shall make additional notification according to a schedule set forth by the Village of Yorkville so that practice installations can be inspected during construction.

- (4) Practice installations required as part of this section shall be certified "as built" or "record" drawings by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Village of Yorkville or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Village of Yorkville 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.
 - (5) The responsible party shall notify the Village of Yorkville of any significant modifications it intends to make to an approved storm water management plan. The Village of Yorkville may require that the proposed modifications be submitted for approval prior to incorporation into the storm water management plan and execution by the responsible party.
 - (6) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Village of Yorkville or are transferred to subsequent private owners as specified in the approved maintenance agreement.
 - (7) The responsible party authorizes the Village of Yorkville to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. Ch. 66, or charge such costs against the financial guarantee posted under Subsection 10-387.
 - (8) If so directed by the Village of Yorkville, 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.
 - (9) The responsible party shall permit property access to the Village of Yorkville or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 - (10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Village of Yorkville may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
 - (11) The responsible party is subject to the enforcement actions and penalties detailed in Subsection 10-389, if the responsible party fails to comply with the terms of this permit.
- (e) Permit conditions. Permits issued under this subsection may include conditions established by the Village of Yorkville in addition to the requirements needed to meet the performance standards in Subsection 10-383 or a financial guarantee as provided for in Subsection 10-387.

- (f) Permit duration. Permits issued under this section shall be valid from the date of issuance through the date the Village of Yorkville notifies the responsible party that all storm water management practices have passed the final inspection required under Subsection 10-384(d)(4), above.

Sec. 10-385. Storm water management plan.

- (a) Plan requirements. The storm water management plan required under Subsection 10-384(b) shall contain at a minimum the following information:
- (1) 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.
 - (2) 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.
 - (3) Predevelopment site conditions, including:
 - a. One or more site maps at a scale of not less than one inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 100 feet; 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.
 - b. 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).
 - (4) Post-development site conditions, including:
 - a. 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.

- b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 - c. One or more site maps at a scale of not less than one inch equals 100 feet showing the following: post- construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 100 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 - d. 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).
 - e. 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.
- (5) A description and installation schedule for the storm water management practices needed to meet the performance standards in Subsection 10-383.
 - (6) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - (7) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - (8) Other information requested in writing by the Administering Authority to determine compliance of the proposed storm water management measures with the provisions of this section.
 - (9) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed Wisconsin professional engineer to be prepared in accordance with accepted engineering practice and requirements of this section.

- (b) Alternate requirements. The Village of Yorkville may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under Subsection 10-383(e).

Sec. 10-386. Maintenance agreement.

- (a) Filing of agreement. The maintenance agreement required under Subsection 10-384(b) for storm water management practices shall be an agreement between the Village of Yorkville 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 Racine County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
- (b) Agreement provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Subsection 10-385(a)(6):
 - (1) Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - (2) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under Subsection 10-384(b).
 - (3) Identification of the responsible party(s), organization or city, county, or Village responsible for long term inspection and maintenance of the storm water management practices identified in the storm water management plan required under Subsection 10-384(b).
 - (4) Requirement that the responsible party(s), organization or city, county, or Village shall maintain storm water management practices in accordance with the schedule included in Subsection 10-386(b)(2) hereinabove.
 - (5) Authorization for the Administering Authority 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 and the ordinances of the Village of Yorkville.
 - (6) A requirement on the Village of Yorkville 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.
 - (7) Agreement that the party designated under Subsection 10-386(b)(3) hereinabove, as responsible for long term inspection and maintenance of the storm water management practices, if notified by the Village of Yorkville of maintenance problems which require correction, undertake corrective within a reasonable time frame as set by the Village of Yorkville.

- (8) Authorization of the Village of Yorkville to perform the corrected actions identified in the Village notification under Subsection 10-386(b)(6), hereinabove, if the responsible party designated under Subsection c, hereinabove, does not make the required corrections in the specified time period. The Village of Yorkville shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stat. Ch. 66, Subchapter VII.

Sec. 10-387. Financial guarantee.

- (a) Establishment of the guarantee. The Village of Yorkville may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Village of Yorkville. The financial guarantee shall be in an amount determined by the Village of Yorkville to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Village of Yorkville the authorization to use the funds to complete the storm water management practices, or restore the project site as deemed fit by the Village, 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 Administering Authority that the requirements of this section have not been met.
- (b) Conditions for release. Conditions for the release of the financial guarantee are as follows:
 - (1) The Village of Yorkville shall release the portion of the financial guarantee established under this section, less any costs incurred by the Village of Yorkville to complete installation of practices, upon submission of "as built plans" or "record" drawings by a licensed professional engineer. The Village of Yorkville may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (2) The Village of Yorkville shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Village of Yorkville, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

Sec. 10-388. Fee schedule.

The fees referred to in other sections of this section shall be established by the Village of Yorkville and may from time to time be modified by resolution. A schedule of the fees established by the Village of Yorkville shall be available for review in the Village hall.

Sec. 10-389. Enforcement.

- (a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this section 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 section.

- (b) The Village of Yorkville shall notify the responsible party by certified mail of any noncomplying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule of remedial action, and additional enforcement action which may be taken.
- (c) Upon receipt of written notification from the Village of Yorkville under Subsection 10-389(b), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Village of Yorkville in the notice.
- (d) If the violations to a permit issued pursuant to this section are likely to result in damage to properties, public facilities, or waters of the state, the Village of Yorkville may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Village of Yorkville plus interest and legal costs shall be billed to the responsible party.
- (e) The Village of Yorkville is authorized to post a stop work order on all land disturbing construction activity that is in violation of this section, or to request the municipal attorney to obtain a cease and desist order in any court with jurisdiction.
- (f) The Village of Yorkville may revoke a permit issued under this section for noncompliance with ordinance provisions.
- (g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Village of Yorkville or by a court with jurisdiction.
- (h) The Village of Yorkville is authorized to refer any violation of this section, or of a stop work order or cease and desist order issued pursuant to this section, to the municipal attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (i) Any person, firm, association, or corporation who does not comply with the provisions of this section shall be subject to a forfeiture of not less than \$500 or more than \$1,000 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (j) Compliance with the provisions of this section 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.
- (k) When the Village of Yorkville determines that the holder of a permit issued pursuant to this section 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 Village of Yorkville or a party designated by the Village of Yorkville may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Village of Yorkville 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 Subsection 10-

387 of this section. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

Sec. 10-390. Appeals.

- (a) Board of appeals. The Board of Appeals of the Village of Yorkville, pursuant to Wis. Stats. § 61.354(4)(b), shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village of Yorkville in administering this section. 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 section 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.
- (b) Who may appeal. Appeals to the Board of Appeals may be taken by any aggrieved person or by an officer, department, board or bureau of the Village of Yorkville affected by any decision of the Village of Yorkville.

Sec. 10-391. Severability.

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