

Stormwater Management and Erosion Control Permit

Last Updated: 4/20/2020

Town of Middleton

7555 W. Old Sauk Road

Verona, WI 53593-9700

Phone: 608-833-5887

Fax: 608-833-8996

info@town.middleton.wi.us

Activities requiring a Stormwater Management Permit and/or Erosion Control Permit are described in Chapter 17 of the Town of Middleton's Ordinances. All activities covered under this permit are subject to the requirements listed in § 17.09 of Chapter 17 of the Town's Ordinances.

Project Location (describe location if address is not available): _____

Include:

Section Number:	Quarter Section:
Quarter-Quarter Section:	Disturbed Area (sq. ft.):
Anticipated Start Date: ____/____/____	Anticipated Completion Date: ____/____/____

Contact Information

Applicant:		
Address:		
Phone:	Fax:	E-mail:
Owner:		
Address:		
Phone:	Fax:	E-mail:
Engineer:		
Address:		
Phone:	Fax:	E-mail:

I hereby agree to pay the required Stormwater Management Permit and/or Erosion Control Permit fee as listed in the Town of Middleton Fee Schedule plus any and all costs and charges borne by the Town as related to and for the purposes of review of the Stormwater Management Permit and Erosion Control Permit listed above.

Signature: _____ Date: _____

For Office Use Only:

Date Received:	
Permit Fee Received*: \$125 (plus actual costs)	On Date: ____/____/____

*See Town Fee Schedule

CHAPTER 17

STORMWATER MANAGEMENT AND EROSION CONTROL

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17.01 Title. This chapter shall be known, cited and referred to as the "Erosion and Stormwater Runoff Control Ordinance."

17.02 Finding and declaration of purpose. The Town finds that urbanizing land uses have accelerated the process of soil erosion, runoff and sediment deposition in the waters of the Town of Middleton. Therefore, it is declared to be the purpose of this chapter to control and prevent soil erosion and minimize stormwater runoff increases and thereby to preserve the natural resources, control floods and prevent impairment of dams and reservoirs, protect the quality of public waters, protect wildlife, protect the tax base and protect and promote the health, safety and general welfare of the people of the Town of Middleton.

17.03 Applicability; performance time.

- (1) Applicability. This chapter applies to the use of lands within the boundaries of the Town of Middleton.
- (2) Performance time requirement. All action required in this chapter shall be conducted as soon as possible as determined by the Administrative Authority.

17.04 Definitions. For the purposes of this chapter, certain words used herein are defined as follows:

- (1) ADMINISTRATIVE AUTHORITY — The governmental employee designated by the Town Board to administer this chapter and includes any other governmental employees who are supervised by the said administrator, for the implementation and enforcement of this chapter.
- (2) AGRICULTURAL LAND USES — Alterations or disturbances of the land used for the production of food and fiber.

- (3) **CEASE AND DESIST ORDER** — A means of giving notice to the permittee or violator that the Administrative Authority believes that the permittee or violator has violated one or more provisions of this chapter. Notice is given by posting upon the lands where the disturbing activity occurs one or more copies of a poster so stating the violation and by mailing a copy of this poster by certified mail to the permittee or violator at the address shown on the permit or to the violator at any address of record.
- (4) **CONTROL PLAN (EROSION AND SEDIMENT CONTROL PLAN and RUNOFF CONTROL PLAN)** — A plan approved by the Administrative Authority of methods for controlling soil erosion, surface water runoff and sediment deposition caused by or resulting from land-disturbing activities.
- (5) **DETENTION STORAGE** — The temporary detaining or storage of stormwater in reservoirs, under predetermined and controlled conditions, with the rate of discharge therefrom regulated by installed devices.
- (6) **DRAINAGE WAY – MAJOR** – Any watercourse, drainage way, channel, stream or swale that has a tributary drainage area of 10 acres or more.
- (7) **DRAINAGE WAY – MINOR** – Any watercourse, drainage way, channel, stream or swale that has a tributary drainage area of 5 acres.
- (8) **EROSION (SOIL EROSION)** — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.
- (9) **EXISTING GRADE** — The vertical location of the existing ground surface prior to excavating or filling.
- (10) **GRADING** — Altering the elevation of the land surface by stripping, excavating, filling, stockpiling of solid materials or any combination thereof and shall include the land from which the material was removed or upon which it was placed.
- (11) **LAND IN ITS NATURAL UNDEVELOPED STATE** — Land that has runoff characteristics equivalent to the maximum Runoff Curve Numbers as shown below for the sites as they existed prior to August 22, 2001.

Runoff Curve Number	Hydrologic Soil Group*			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	51	68	78	83

*Hydraulic Soil Group defined by Natural Resources Conservation Services.

- (12) **BEST MANAGEMENT PRACTICES** — A practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. These can include structural, vegetative or operational practices.
- (13) **LAND-DISTURBING ACTIVITIES OR USES** — Any land changes which may result in soil erosion, sedimentation and/or the increase in runoff, including but not limited to filling, removal of ground cover, grading, excavating and filling of land, except that the term shall not include such minor land-disturbing activities as home gardens and repair and maintenance of private roads. Additionally, this term does not include agricultural land uses and wildlife plantings.
- (14) **PEAK FLOW** — The maximum rate of flow of water at a given point in a channel, watercourse or conduit resulting from a predetermined storm or flood.
- (15) **PUBLIC LANDS** — All government owned lands which are subject to regulation by the Town, including but not limited to:
 - (a) All lands owned or controlled by the Town;
 - (b) All lands owned by another unit of government.
- (16) **SEDIMENT** — Solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or ice and has come to rest on the earth's surface at a different site.
- (17) **SEDIMENTATION** — The transportation and deposition of eroded soils at a site different from the one where the erosion occurred.
- (18) **SOIL LOSS** — Soil moved from a given site because of land-disturbing activities or by the forces of erosion and redeposited at another site on land or in a body of water.
- (19) **STORM EVENTS** — The average period of time which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- (20) **STORMWATER RUNOFF** — The waters derived from rains falling or snowmelt or icemelt occurring within a drainage area, flowing over the surface of the ground and collected in channels, watercourses, or conduits.
- (21) **STRUCTURAL MEASURES** — Works of improvement for land stabilization to prevent erosion, sedimentation or runoff.
- (22) **TOWN** — The Town of Middleton Town Board.

17.05 Land-disturbing activities subject to control.

- (1) General requirement. Any owner, occupant or user who undertakes, commences or performs land-disturbing activities; or who permits another person to do the same, on land subject to this section, shall be subject to this chapter.
- (2) Land-disturbing activities subject to erosion and sediment control. Activities on public lands and on all private lands shall be subject to this chapter if:
 - (a) An area of 4,000 square feet or greater will be disturbed resulting in the loss or removal of protective ground cover or vegetation.
 - (b) Excavation, fill, or any combination thereof, will exceed 400 cubic yards.
 - (c) Any public (federal, state or local) street, road or highway is to be constructed, enlarged, relocated or substantially reconstructed.
 - (d) Any use by a unit of government or by public or private utilities in which underground pipe or facilities will be laid, repaired, replaced or enlarged for a distance over 300 feet.
 - (e) There is a subdivision of land as defined in Chapter 15 of this Code.
 - (f) Any land disturbance within the Shoreland Zone, as defined in Dane County Ordinance Section 11:02(5).
- (3) Land disturbing activities subject to on-site detention and runoff control. Activities on public lands and on all private lands shall be subject to this chapter if:
 - (a) Development results in the cumulative addition of 20,000 square feet of impervious surface to the site since August 22, 2001.
 - (b) New agricultural buildings are constructed and the new total impervious surface area exceeds 20,000 square feet.
 - (c) The development requires a subdivision plat.
 - (d) Commercial or industrial development requires a certified survey map.
 - (e) Redevelopment exceeds 4,000 square feet of land disturbance where site is predominantly developed to commercial, industrial, institutional, or multifamily residential uses.
 - (f) Other development or redevelopment may have significant downstream impacts as determined by the Town Engineer.
- (4) Shoreland Zoning. Land areas within the Shoreland district as defined by Dane

County Ordinance Section 11.02(5) are subject to Dane County's Shoreland regulations.

- (5) Compliance with this section. The owner, occupant or user shall be in compliance with this section if the procedure of § 17.09 is followed.

17.06 Reporting on stormwater facilities. [Added 12-15-2008]

- (1) Any development or land disturbing activity required to have a recorded Stormwater Maintenance Agreement per § 14.49(3)(d), Dane County Ordinances, rev. January 31, 2017 (or similar section in earlier or later versions of the Ordinances), or any development or land disturbing activity required to record a Stormwater Maintenance Agreement or Plan by the Town of Middleton or other regulatory agency (either as part of Covenants and Restrictions for a development or by other instrument) is subject to biennial reporting of the activities required by the Stormwater Maintenance Agreement or Plan.
- (2) The Landowner or Homeowners' Association must submit a report and certification to the Town of Middleton in every odd numbered year describing the inspection and maintenance activities of the stormwater facilities, as required by the Stormwater Maintenance Agreement, that took place during the previous two years. The report must be completed by an Engineer or qualified individual suitable to the Town, and must be submitted to the Town by November 1 of each odd numbered calendar year. Frequency of the report and contents of the report shall be per Town of Middleton Stormwater Reporting Guidelines Policy.¹ The fee for the report and certification shall be as indicated on the Town Fee Schedule, if complete reports are not received by November 1 of each odd numbered calendar year, a penalty (per the Town Fee Schedule) will be assessed to all owners of the stormwater facilities. In addition, for those reports not received by the due date, the Town may complete the report, charge the report fee indicated on the Town Fee Schedule, and assess the cost to all owners of the stormwater facilities.

17.07 Prohibited acts. Any person, firm or corporation who causes or permits erosion, sediment deposits, tracking or dropping of dirt on adjacent land, public streets or bodies of water from any land, whether otherwise subject to this chapter or not, shall be deemed in violation of this chapter and subject to the penalties provided in § 17.10.

17.08 Standards and criteria.

- (1) Standard for erosion and sediment control for land-disturbing activities. Plans will not be approved nor permits issued unless erosion and sedimentation leaving the site during and after the land disturbance will not exceed that which would have eroded if the land had been left in its undisturbed state and/or are controlled in accordance with established procedures, including but not limited to, "Minimizing

1. Editor's Note: The Stormwater Reporting Guidelines Policy is included at the end of this chapter.

Erosion in Urbanizing Areas" or other technical guidelines as developed by Dane County Land Conservation District in cooperation with the U.S. Department of Agriculture, Soil Conservation Service.

- (2) Standards for on-site detention and runoff control for land-disturbing activities. Activities subject to on-site detention and runoff control regulation under this chapter shall accomplish the following:
 - (a) Maintain predevelopment peak runoff rates for the 1-year, 24 hour storm event (2.49 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (b) Maintain predevelopment peak runoff rates for the 2-year, 24 hour storm event (2.84 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (c) Maintain predevelopment peak runoff rates for the 5-year, 24 hour storm event (3.49 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (d) Maintain predevelopment peak runoff rates for the 10-year, 24 hour storm event (4.09 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (e) Maintain predevelopment peak runoff rates for the 25-year, 24 hour storm event (5.01 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (f) Maintain predevelopment peak runoff rates for the 100-year, 24 hour storm event (6.66 inches over 24-hour duration using NRCS MSE4 storm distribution).
- (3) Design Requirements for Public Improvements. In addition to meeting the requirements of this chapter, land disturbing activities and sites requiring stormwater management shall meet the requirements of the Design Requirements for Public Improvements document which is developed, modified, and approved, from time to time by the Town Board and which is incorporated in this chapter by reference.
- (4) Design criteria engineering standards and general principals.
 - (a) The applicant for a permit may employ any structural or nonstructural measures necessary to achieve all applicable standards set out in this Chapter provided these measures shall meet accepted design criteria and engineering standards.

- (b) The following general principles shall be used when evaluating control plans and granting permits under this chapter:
 - (i) The smallest area of land shall be exposed for the shortest period of any given time during development.
 - (ii) The rough grading of the lot shall include backfilling the basement and all excess earth shall be hauled off the lot.
 - (iii) Accommodation of the increased runoff caused by changed soil and surface conditions during and after development.
 - (iv) Permanent, final plant covering or structures shall be installed prior to final acceptance.
 - (v) The plan of development shall relate to the topography and soils of the site so that the lowest potential for erosion is created.
 - (vi) Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing the site and temporary vegetation, mulching or other cover shall be used to protect the area exposed during the land-disturbing activity.

17.09 Application and issuance of permits.

- (1) Permit required; procedure and fee.
 - (a) Unless specifically excluded by this chapter, no owner, occupant or user may undertake an activity subject to this chapter without receiving a permit. Each owner, occupant or user desiring to undertake a regulated activity subject to this chapter shall submit an application for a permit together with the appropriate fee. The permit fee shall be as indicated on the Town Fee Schedule.
 - (b) Exceptions to this requirement are as follows:
 - (i) No permit fee shall be assessed against public lands unless those public lands are being developed for private purposes.
 - (ii) The Town may enter into an agreement with public or private utilities and governmental agencies to waive the need for a permit for each individual activity upon their written agreement to comply with this chapter.
 - (iii) Any subdivision of land as defined by the subdivision regulations of the Town of Middleton shall reimburse the Town for actual costs incurred for administration of this Chapter related to the subdivision,

in lieu of the permit fee.

- (2) Control plan required.
 - (a) Unless specifically exempted by this chapter, every applicant for a permit shall submit a plan to control erosion, sedimentation and runoff that would result from the proposed activity.
 - (b) Permit applicants are exempted from the requirement of the submission of a control plan if the proposed activity is on 1/4 acre or less of land, and the permit devices to implement all the control techniques which are necessary to meet all the applicable standards in § 17.08.
- (3) Contents of the control plan. The Control Plan required by Subsection B shall contain such information as needed to determine soil erosion, sedimentation and runoff control:
 - (a) A map of the site location showing the location of the predominant soil types.
 - (b) An existing topographic map with a maximum of one foot contour intervals of the site location, including the contiguous properties, existing drainage patterns and watercourses affected by the proposed development of the site and the existing vegetative cover.
 - (c) A proposed plan of the site showing:
 - (i) Name, address and telephone number of the occupant and party responsible for maintaining erosion control.
 - (ii) Limits of natural floodplain(s), based on a one-hundred-year flood, if any.
 - (iii) A timing schedule indicating the anticipated starting and completion dates of the development sequence.
 - (iv) Proposed topography of the site location with a maximum of one foot contour intervals showing:
 - 1. Location of activity, disturbance of protective cover, any additional structure on the site, areas to be seeded or mulched, areas to be vegetatively stabilized and areas to be left undisturbed.
 - 2. Elevations, dimensions, location of all activities including where topsoil will be stockpiled.

3. The finished grade, stated in feet horizontal to feet vertical, of cut and fill slopes.
 4. Kinds of utilities and areas of installation, including special erosion control practices for utility installation.
 5. Impervious areas in square feet or to scale on a plan map for each watershed.
 6. Existing and proposed culvert sizes, drainage area map for each culvert.
 7. Proposed watershed size for each drainage area.
 8. Cross section of and profiles of channels, swales, and ditches.
- (v) Provisions to prevent tracking material off-site onto public streets during construction.
 - (vi) Copies of permits and permit applications required by any other agencies.
 - (vii) Proposed limits of disturbance.
- (d) Hydraulic computations for all structural or nonstructural measures or other protective devices to be constructed in connection with the proposed work showing:
- (i) Estimated rate of discharge in cubic feet per second at all structural or nonstructural measures and at the point of discharge from the site location for the one- through one-hundred-year frequency storm event after development.
 - (ii) Estimated rate of discharge in cubic feet per second from the site for the one- through one-hundred-year frequency storm event prior to development.
 - (iii) Provisions to carry runoff to the nearest adequate outlet.
 - (iv) Design computations and applicable assumptions for all structural measures for erosion and sediment pollution control and water management. Volume and velocity of flow must be given for all surface water conveyance measures and pipe outfalls.
- (e) Provisions for perpetual maintenance of control facilities including

easements.

- (4) Review of application.
 - (a) The Administrative Authority shall review all permit applications accompanied by the control plan, if required, and the appropriate fee and shall determine if measures are adequate to meet all the applicable standards as set out in § 17.08. The determination shall be made within 15 work days from receipt of the completed application. The applicant will be informed in writing whether the control plan is approved, disapproved and modified or if additional information is required. Failure to render a written decision within 15 work days shall be deemed an approval of the plan as submitted, and the applicant may proceed as if a permit has been issued.
 - (b) In the event that the plan is disapproved, the applicant may resubmit a new control plan or may appeal the Administrative Authority's decision as provided in § 17.11. No additional permit fee is required.
- (5) Permit; conditions. All permits under this chapter shall be issued subject to the following conditions and requirements:
 - (a) All land disturbances will be done pursuant to the approved control plan.
 - (b) The permittee gives two working days' notice to the Town Office in advance of the start of any activity.
 - (c) The permittee shall file a notice with the Town Office within 10 work days after completion of land-disturbing activities.
 - (d) Approval in writing must be obtained prior to any modifications to the approved control plan.
 - (e) The permittee shall be responsible for maintaining all proposed public roads, road rights-of-way, streets, runoff and drainage facilities and drainage ways as specified in the approved plan until they are accepted and become the responsibility of the Town.
 - (f) The permittee shall be responsible, at permittee's expense, for repairing any damage to all adjoining surfaces and drainage ways caused by runoff and/or sedimentation resulting from permittee's activities.
 - (g) The permittee shall provide and install at permittee's expense all drainage, runoff control and erosion control improvements as required by this chapter and the approved control plan and shall provide perpetual maintenance on all these private control facilities.

- (h) No portion of the land which is disturbed will be allowed to remain uncovered for greater than 7 days after notice is given that the activity is completed.
 - (i) The permittee agrees to permit the Administrative Authority to enter onto the land regulated under this chapter for the purpose of inspecting for compliance with the approved control plan and permit.
 - (j) The permittee authorizes the Administrative Authority to perform any work or operations necessary to bring the condition of the lands into conformity with the approved control plan and further consents to the Town collecting the total of the costs and expenses of such work and operations as a special charge against the property for current services rendered as provided by law.
 - (k) The permittee shall inspect, or cause to be inspected, each site following any one-half inch (1/2") rainfall in any twenty-four (24) hour period. Such inspections shall ensure compliance with the control plan.
- (6) Permit duration. Permits issued under this chapter shall be valid for a period of six months from the date of issuance. The Administrative Authority is authorized to extend the expiration date of the permit. The Administrative Authority is authorized to modify the plans to prevent any increase in sedimentation, erosion or runoff resulting from any extension.

17.10 Violations and penalties.

- (1) General penalty. Unless otherwise provided, any person who shall violate any of the provisions of this chapter shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
 - (a) First offense. Any person who shall violate any provision of this chapter shall, upon conviction thereof, forfeit not less than \$100 nor more than \$500, together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days.
 - (b) Second or subsequent offense. Any person found guilty of violating any provision of this chapter who shall previously have been convicted of a violation of the same provision within one year shall, upon conviction thereof, forfeit not less than \$250 nor more than \$1,000 for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six months.
 - (c) Continued violations. Each violation and each day a violation continues or

occurs shall constitute a separate offense. Nothing in this chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this chapter.

- (d) Other remedies. The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the Administrative Authority, or the Administrative Authority's designee, or other Town officials constitute a defense.
- (2) Enforcement by injunction. Compliance with the provisions of this Ordinance may also be enforced by injunction at the suit of the Town of Middleton.
- (3) Performance of work by the Administrative Authority. Where it is found that any of the provisions of this chapter are not being observed on particular lands, the Administrative Authority is hereby authorized to require the owner, occupant or user to perform the work or Best Management Practices within 10 working days of receipt of written notice of deficiency by the Town or the Town's designee and to order that if the owner, occupant or user fails to perform, the Administrative Authority may go on the land and bring the condition of said lands into conformity with the requirements of this chapter and recover the costs and expenses thereof from the owner. In the event that the owner fails to pay the amount due, it shall be collected as a special charge for current services rendered upon the property as provided by law.

17.11 Appeals.

- (1) Authority. The Town Board shall:
 - (a) Hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Administrative Authority in administering this chapter.
 - (b) Authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. Such variance may be granted to two or more property owners, including governmental agencies that submit one runoff control plan for two or more parcels of land. In the event it is in the interest of the Town of Middleton to participate with another property owner(s) in a runoff control plan and contribute available stormwater detention capacity, or construct stormwater detention on Town lands, the other participant(s) shall reimburse the Town an amount equal to the value of the Town lands used but not less than the

fair market value of unimproved lands plus the estimated construction cost of the detention capacity that would have been required of the other participant(s) to serve their lands in order to comply with this chapter.

- (2) Procedure. The rules, procedures, duties and powers of the Town Board shall apply to appeals under this chapter.
- (3) Who may appeal. Appeals may be taken by any person, firm or corporation aggrieved or by an officer, department, board or commission of the Town of Middleton affected by the order, requirement, decision or determination made by the Administrative Authority. For the purpose of this chapter, "aggrieved person" shall include applicants and property owners who own land that is subject to this chapter.

[HISTORY: Adopted by the Town Board of the Town of Middleton 8-2-2004 as Title 10, Ch. 3 of the 2004 Code. Amendments noted where applicable.]

TOWN OF MIDDLETON -STORMWATER REPORTING GUIDELINES POLICY

Original Adoption Date: 12/15/08 Last

Updated: 1/21/14

This document lists the required contents of the report for each type of stormwater facility and the frequency of required reporting for each type of facility. This document does not list the inspection and maintenance requirements of each facility. *Note: The frequency of the reports may differ from the frequency of required inspection and maintenance activities.*

These stormwater reporting guidelines shall be followed for any development within the Town of Middleton subject to the requirements of Chapter 17 of the Town's Code of Ordinances.

Reports must contain:

- The date of the previous report.
- Records of all inspection and maintenance activities occurring since the previous report.
- A written assessment of all inspection and maintenance activities occurring since the previous report.
- Photographs and any other backup documentation the inspector feels is necessary.

- A. Dry Detention Basins: Reports due every odd calendar year.
- B. Wet Detention Basins: Reports due every odd calendar year.
- C. Infiltration Facilities (Includes Rain Gardens): Reports due every odd calendar year.
- D. Bioretention Facilities: Reports due every odd calendar year.
- E. Storm Sewer System: Reports due every odd calendar year.
- F. Culverts: This includes erosion protection at end sections. Reports due every odd calendar year.
- G. Swales and Drainways: Reports due every odd calendar year.