

STORM WATER INTERGOVERNMENTAL AGREEMENT
Between the Village of Merton and Waukesha County

Whereas, the Village of Merton ("Village") and Waukesha County ("County") both recognize the negative impacts that storm water runoff from urban lands can have on local water resources and are both subject to WPDES Municipal Separate Storm Sewer Discharge General Permit WI-S050075-1 under Chapter NR 216 Wisconsin Administrative Code ("Municipal Permit"); and

Whereas, as conditions of a the Municipal Permit, communities are required to conduct an information and education program on controlling nonpoint source water pollution and enforce a construction site erosion control and storm water management ordinance that complies with NR 216; and

Whereas, the WI Department of Natural Resources has determined Chapter 14, Article VIII of the Waukesha County Code of Ordinances, entitled *Storm Water Management and Erosion Control* ("County Ordinance") complies with the above noted Municipal Permit requirement related to ordinance enforcement within the jurisdictional boundaries of the Village; and

Whereas, the WI Department of Natural Resources has also determined that the Waukesha County Storm Water Education Program, as described in Exhibit X, complies with the above noted Municipal Permit requirements related to storm water education if implemented by the Village and the County as described herein; and

Whereas, a written agreement for the Village and the County to jointly coordinate ordinance enforcement activities and implement the storm water education program can be a cost-effective way to satisfy these Municipal Permit requirements for both units of government;

Now, therefore, in consideration of these premises, the Village and the County under the authority of subsection 66.0301 Wis. Stats. hereby agree to cooperate on the implementation of the County Ordinance and a storm water education program within the Village in accordance with the following:

- (a) **SERVICES, FEES, CONTACTS AND REPORTS.** For the remainder of this agreement, the term "County" shall mean the Waukesha County Department of Parks and Land Use – Land Resources Division.
- 1. Ordinance Enforcement.** The County will administer and enforce the County Ordinance within the boundaries of the Village. The County will also administer the erosion and sediment control requirements of Chapter Comm 21 Wisconsin Administrative Code for 1-2 family residential construction sites, as adopted by the Village under Ordinance # 53. The County shall be responsible for meeting the Municipal Permit conditions for the Village entitled "Construction Site Pollutant Control" (section 2.4) and "Post Construction Storm Water Management" (section 2.5). The procedures outlined in section (b) below shall apply to this process.

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2. **Information and Education.** Starting November 1, 2008 the County agrees to provide the Village educational program services in accordance with Exhibit X. When implemented, this program will satisfy the Municipal Permit conditions entitled "Public Education and Outreach" (Section 2.1) and "Public Involvement and Participation" (Section 2.2) for both the County and the Village. Exhibit X describes an annual work planning and oversight process, program goals by target audience, planned activities and the general roles of the County and the Village during implementation. The County and the Village agree to participate in at least two program planning and implementation meetings each year and to carry out assigned activities, as described in Exhibit X. It is understood that the County and the Village must implement the program described in Exhibit X to maintain compliance with the Municipal Permit and are both subject to annual evaluations by the Wisconsin Department of Natural Resources.

The County and the Village further understand they are each responsible for demonstrating their own compliance with Section 2.6.8 of the Municipal Permit relating to the education of County and Village officials.

3. **Fees.**

A. County Ordinance. The County will charge no fees to the Village for services performed to administer Storm Water Permits under the County Ordinance. The County will establish, retain and modify fees for permit applicants as necessary to support County costs for administering the County Ordinance. The Village is responsible for annual municipal permit fees to the state under NR 216.08.

B. Information and Education. Starting in 2008, the Village agrees to pay the County the applicable fee shown in Exhibit Y for the information and education program services described in Exhibit X. This fee is designed to partially offset County costs for staff salaries, benefits, overhead, materials and program support, except for bulk mailings. After 2008, this fee shall be subject to an annual increase not to exceed 5% or the actual County cost increases for salary and benefits involved in providing these services, whichever is less. All fees after 2008 shall be documented by invoice from the County to the Village. The Village shall approve and be responsible for any proposed bulk mailing costs proposed within their community above and beyond the program outlined in Exhibit X, unless otherwise agreed to by the County.

4. **Responsible Contacts.** Upon execution of this agreement, the County and the Village each shall designate in writing a primary contact person to be responsible for carrying out the activities described in Exhibit X.
5. **Reporting.** By March 1 of each year, the County shall provide the Village with a report of activities under sections 1. and 2. above that were carried out by the County during the previous calendar year, as needed to comply with the Municipal Permit. The Village shall be responsible for tracking their own

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activities and submitting all required reports to the Wisconsin Department of Natural Resources.

(b) ORDINANCE ENFORCEMENT PROCEDURES

1. **Intent.** In order to effectively enforce the County Ordinance under this agreement, it is important to incorporate storm water management concepts into site planning early in the land development process. To do this requires coordination of certain procedures between the County and Village. This section describes how this will be done.

2. **Plan Review/Approval Procedures.** The Village and the County will notify each other of any scheduled on-site visits for proposed subdivision plats and other developments that may trigger the need for a storm water management plan under the County Ordinance. Copies of all correspondence generated by the Village or the County relating to a permit under the County Ordinance will be provided to each other. The Village Clerk will notify the County of all meetings scheduled to review the projects subject to a storm water management plan and provide copies of plats and other materials to the County in accordance with the following:
 - A. Preliminary Plats & Site Plans/CSM's. Two weeks prior to scheduled action by the Village Planning Commission or Village Board, the Village will provide copies of all certified survey maps (CSM's), site plans, preliminary plats and other proposed developments subject to a storm water management plan under the County Ordinance. This will allow time for the County to prepare a "Preliminary Storm Water Review Letter" and resolve spatial issues related to storm water management early in site planning, as described in the County Ordinance.

 - B. Grading/Construction Plans. The Village Engineer will provide the County with any comments from the Village relating to the enforcement of the County Ordinance, which the County will incorporate into the Storm Water Permit process, as authorized. The Village Engineer is responsible for ensuring compliance with all other applicable Village codes, permits and approvals.

 - C. Final Plats and CSM's. Final Plats and CSMs will not be approved by the Village or County until the County provides "Certification of Compliance" with the County Ordinance. This will help ensure that items such as drainage easements, BMP locations, maintenance agreements, access lanes, utility easements and other related items are properly addressed.

 - D. 1-2 Family Residential Construction. The Village will refer all permit applicants to the County to enforce compliance with the erosion and sediment control requirements of Comm 21 Wisconsin Administrative Code. The County will approve the plans and rely on the Village Building Inspector to issue all applicable permits.

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3. **Financial Assurance.** The Village agrees to include a provision in all developer's agreements that expressly allows the Village to withhold release of a financial assurance until documentation is received from the County of compliance with the County Ordinance. Except for 1-2 Family sites, the County will hold a separate smaller financial assurance from the permit holder until compliance with County Storm Water Permit termination requirements, including as-built surveys and construction verification.
4. **Preconstruction Meetings.** Except for 1-2 Family sites, preconstruction meetings will be coordinated between the Village Engineer and the County to review all regulatory requirements and ensure that the Village, the County, the developer and all affected contractors agree to and possess a final approved set of construction plans.
5. **Plan Revisions or Modifications.** The Village and the County must each receive in a timely manner a set of any construction plans that are revised or modified after a Preconstruction meeting.
6. **As-Built Documentation.** As stated in the County Ordinance, the County will rely on the engineer of the Storm Water Permit holder to verify compliance with approved plans and provide as-built documentation to the County. The County will ensure electronic archiving of the data as described in section (d) below.

7. **Permit Enforcement Procedures.**

- A. **Enforcement.** The Village will forward to the County any concern or complaint the Village receives relating to enforcement of the County Ordinance. The County will respond to these complaints within 24 hours on working days. If the Village determines that an issue requires immediate attention, the Village may request that the County respond immediately.

For 1-2 Family sites, the County will conduct inspections and issue warnings to the permit holder for violations. The County will copy the Village Clerk on all correspondence and refer repeat violations of the erosion and sediment control plans to the Village Building Inspector for enforcement action.

- B. **Legal Services.** The County Corporation Counsel's Office will provide legal services to the County regarding enforcement of the County Ordinance. The Village Attorney will provide any necessary legal services regarding enforcement of Comm 21 on 1-2 Family sites.
- C. **Appeals.** The County Board of Adjustment will hear all appeals related to the implementation of the County Ordinance. The County has additional enforcement authority under the County Ordinance, including citation authority.

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8. **Village Funded Projects.** For any road maintenance project or other construction funded by the Village that may trigger the need for a permit under the County Ordinance, no fees or financial assurance will apply and the County will assist the Village in meeting the County Ordinance in accordance with the following:
- A. **New Construction/Reconstruction.** The Village Engineer will involve the County early in the planning process to determine applicability of various technical requirements of the County Ordinance. The County will advise the Village Engineer or other designated consultant on the preparation of plans that comply with all applicable requirements.
 - B. **Road and Ditch Maintenance.** The County will provide the Village with sample erosion control plan templates for common road maintenance work that may trigger the need for an erosion control plan, including maintenance work to ditches and other stormwater conveyance systems. If the Village uses these templates, roadwork can proceed after a 24-hour notification to the County. For other road maintenance projects, the Village must provide the County at least 7 days notice, so that the County can review erosion control plans for the site.

(c) VILLAGE POLICIES

It is the policy of the Village to require new roads and buried utilities to be installed in a timely manner that minimizes soil erosion, environmental damage and future maintenance problems. The County will ensure that the following Village policies are adhered to during the preparation and implementation of erosion control plans through the County Ordinance:

- 1. **Utilities.** Whenever practicable, no buried utilities shall be installed within the design flows of open channels in Village road right-of-ways, except for right angle crossings. Preferred placement on new roads is 3 feet inside of property boundaries with a 10 foot recorded easement for future maintenance. This policy may vary depending on soil conditions, trees and other obstructions.
- 2. **Road Construction Deadlines.** September 15 is recognized as the deadline for successful seeding of permanent grasses in Waukesha County. In accordance with the County Ordinance, new road construction with roadside swales will generally not be allowed to proceed unless it is demonstrated that this deadline will be met. Exceptions to this rule may be made under unique circumstances only if no off-site impacts are likely to occur and the Village Engineer and the County approve the construction plans.

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(d) LONG TERM MAINTENANCE OF STORMWATER FACILITIES

The following procedures aim to ensure the proper long-term maintenance of storm water management facilities within the Village and compliance with certain provisions of the Municipal Permit. Proper maintenance of these facilities will help minimize structure failure and possible damage and ensure that the facilities continue to serve their designed functions. It is understood by the Village that all County activities listed in this subsection will be completed as staff time allows, at no cost to the Village.

1. **GIS Database.** The County has created a web-based database to store information on all storm water management facilities within the Village, including: location (including GIS links), facility type, design data, year of installation, ownership and maintenance responsibilities (if able to determine), photographs, a record of any inspections completed, and other related information. The Village will be offered access to this database through the Internet upon request.
2. **Inspections.** The County will conduct periodic on-site inspections of storm water management facilities in the Village and produce a written report concerning the current condition of each facility inspected. During the inspection, the County may complete simple maintenance measures such as clearing debris from outlets or removal of trash or woody vegetation. If the County recommends additional inspection or maintenance action, the County will discuss the needs with the Village Engineer and include final recommendations in a written inspection report to the Village.
3. **Enforcement.** The Village will be responsible for notifying the owner(s) of the storm water facility and enforcing any inspection and maintenance requirements.
4. **Disclaimer.** It is understood that the County does not certify the design, construction or performance of any storm water management facility in the Village, regardless of the conditions noted in an inspection report. The Village is responsible for compliance with Municipal Permit requirements relating to inspection of Village-owned storm water management facilities.

(e) MISCELLANEOUS PROVISIONS

1. **Effective Date.** Pursuant to subsections 59.693(9) and 61.354(8) Wisconsin Statutes, this Agreement may be established only by ordinance of both municipal entities and shall become effective thereon. This Agreement shall remain in effect through the term of the Municipal Permit (December 31, 2010) or until otherwise terminated by either party under sub. 3. below. Upon renewal, extension or re-issuance of the Municipal Permit, this agreement will automatically be extended and renewed for the period of the permit, unless otherwise agreed by the parties or terminated under sub. 3. below.
2. **Review and Amendments.** The terms of this Agreement shall be reviewed annually and may be modified if approved in writing by both parties and duly

Exhibit X

Waukesha County Storm Water Education Program For NR 216 Phase 2 Communities 2008-2012

This exhibit describes a public information and education program that complies with the Municipal Permit conditions noted in section (a) of this Agreement. The program is organized by target audience. For each target audience, programs goals, activities and the general roles of the County and the local Community are described.

Details of each activity are not provided in this document. These will be further developed through an annual work planning process with an Education Advisory Committee. The Committee will be chaired and coordinated by the County, with representation from participating communities. Each fall, through the annual work planning process, more specifics will be added for project goals, timelines, event locations, community role, staff assignments and coordination between the County, DNR, UWEX and participating communities. The Committee will meet at least 2 times per year to review the status of activities, evaluate their success and make work plan revisions, as needed. Subcommittees may be formed to plan or carry out certain activities, as needed. Some activities will be phased into the program, as noted below.

To comply with the Municipal Permit, all communities are required to carry out minimum assigned tasks, as described below. However, staff in the larger communities (category 2-4 in Exhibit Y) are expected to participate more in program planning and implementation, which will be further described in the annual work plan. To encourage public participation in the development and implementation of the work plan, the County will post the plan on their web page for comment and contact local environmental, civic and other interested groups or individuals and encourage their involvement. Each community must provide the County with contact information for applicable local groups or interested individuals.

Target Audience: Contractors, Builders, Developers, Consultants & Municipal Staff

Goal: Increase understanding of and compliance with local ordinance requirements for construction site erosion control and post-construction storm water management. Provide technical training for plan development and Best Management Practice (BMP) design, installation and maintenance. Promote environmentally sensitive land development methods.

1. Workshops – The County will conduct at least one workshop each year. Specific workshop location, timing, topics, speakers, etc. will be determined during the annual work planning process, or in response to industry requests. The County will lead program development, implementation, advertising and post-workshop evaluation efforts, as needed.
 - *Community role: Assist the County in program planning, promotion and implementation, including providing e-mail lists for local target audiences, distributing advertising materials locally, and finding presenters and local examples of target BMPs. Communities may also be asked to serve on a planning committee.*

2. BMP Demonstrations/Tours – The County will offer periodic demonstrations and tours of local sites to showcase storm water BMPs and discuss lessons learned during their design, implementation and maintenance. This activity may be conducted as a bus tour, indoor workshop and/or self-guided or on-line tour. It is anticipated that this activity will be phased in the last two years of this program as more BMP demonstration sites become available.
 - *Community role: Find sites within their community that could be used for BMP tours and demonstrations. Help the County obtain the necessary BMP design and installation data, photographs, etc. Assist with implementation duties per the work plan.*

3. Newsletters – The County will write periodic newsletter articles for the Metropolitan Builders Association (or similar groups), focusing on local nonpoint pollution control problems, solutions, on-going program efforts and success stories that affect their industry. Also use these articles to advertise local workshops, tours and demonstrations.
 - *Community role: Provide the County with ideas for related articles on local activities, events or success stories.*

Target Audience: General Public

Goal: Increase public understanding of the processes and negative impacts that urban storm water runoff and illicit discharges have on the local water resources and what each person can do to address the problem. Promote changes in behavior and the adoption of practices such as native landscaping, rain barrels, rain gardens, green roofs, environmentally sensitive lawn, pet and car care, riparian land management, yard waste composting, water quality monitoring, hazardous waste management and other related practices.

1. Storm Drain Stenciling – The County will provide stencils, paint and educational door hangers, and coordinate their distribution and use by youth groups and adult organizations to paint the message “Dump No Waste – Drains to River/Lake” on local storm drain inlets. This activity educates the people doing the stenciling and residents living in the neighborhoods being stenciled.
 - *Community role: Promote the activity locally, provide the County with contacts for local youth and civic groups, and facilitate local approvals as needed.*

2. News Releases/Newsletters/Recognition – The County will prepare seasonal news releases and articles for local newspapers and Community newsletters announcing water quality related activities, programs and services, and recognizing local citizens and businesses who adopt “water friendly” practices.
 - *Community role: Provide the County with contacts for local media, people or businesses that deserve recognition, and other ideas for news releases and articles. Assist with writing local articles or local versions of County articles. Disseminate articles locally through Community newsletters, civic groups, etc.*

3. Presentations – The County will provide a speaker, accompanied by a Power Point presentation or video for local civic groups and other organizations with the above noted messages.
 - *Community role: Promote the service locally and forward presentation requests to the County. Identify local opportunities, coordinate with local events, and assist with implementation duties per the work plan.*

4. Displays/Handouts – The County will provide fully developed displays and handout materials for local special events or building lobbies and entryways. The County will also coordinate the transportation of the display and train local staff in setup. Displays will promote the practices noted above, but be tailored to address seasonally specific issues, such as lawn care, fall leaf collection, etc.
 - *Community role: Schedule local display opportunities with the County. Coordinate local setup, maintenance and take down with the County.*

5. Web Page – The County will create and maintain web pages that provide information on the above noted practices, promotes their use, and direct citizens to related local services, events and demonstration sites. Related fact sheets and informational flyers will also be made available for download.
 - *Community role: Direct local citizens to the County web pages and incorporate links into Community web pages to promote related County service and events.*

6. Workshops – The County will conduct periodic workshops to promote runoff and waste reduction from individual homes and businesses, using practices such as rain gardens, natural landscaping, yard waste composting, etc.
 - *Community role: Promote and host workshops locally. Provide contact information to the County for interested citizens and targeted businesses. Assist with implementation duties per the work plan.*

7. Tours/Demonstrations – The County will conduct periodic on-site tours and demonstrations to promote homeowner practices such as rain gardens, natural landscaping and yard waste composting, possibly in combination with the above noted workshops. This activity will be phased in as sites become available.
 - *Community role: Promote the tours and demonstrations locally and provide contact information to the County for interested citizens and targeted businesses. Assist with implementation duties per the work plan.*

8. Rain Garden Grants/Technical Assistance – The County will pursue grants to offset the costs to local landowners for installing rain gardens. The County will advertise and administer available grant funds and provide technical assistance to landowners in accordance with adopted policies, *(per separate agreements between the County and the grant recipient)*. Successful rain garden sites may be used for future news articles, tours and demonstrations.
 - *Community role: Promote the grant program locally and direct interested landowners to the County. Assist with implementation duties per the work plan.*

9. Hazardous Waste/Used Oil Collection – To prevent improper disposal and water pollution, the County will continue to promote and support three permanent household and agricultural hazardous waste collection sites in Waukesha, Muskego and Menomonee Falls, and periodically host temporary collection sites in other Communities, as funding allows *(per separate agreements between the County and the Community)*. Used motor oil will also continue to be collected at Community recycling drop off sites.
 - *Community role: Promote the collection sites locally and direct citizens to the County web site for more information.*

10. Yard Waste Composting – To reduce water pollution from improperly disposed leaves and grass clippings, the County will promote home composting of yard wastes and continue to offer a County-owned drop-off site for Community yard waste collection programs at no cost to the Community for processing *(per separate agreements*

between the County and the Community). At the drop-off site, yard wastes are composted and used for mine reclamation purposes.

- *Community role: Collect yard waste from citizens and transport to the County composting facility in the Town of Genesee.*

11. Citizen Stream Monitoring – The County will offer interested citizens the opportunity to monitor a local stream site once a month from April to September. The County will train and equip participants to collect temperature, turbidity, biotic index, flow and dissolved oxygen data. This activity educates participants while collecting useful water quality data for monitoring program progress.

- *Community role: Promote service locally and direct interested citizens to the County.*

Target Audience: School Teachers & Students

Goal: Have teachers learn the processes and negative impacts that urban storm water runoff and illicit discharges have on the local water resources, and what they and their students can do to address the problem. Incorporate into related indoor and outdoor classroom activities and implement runoff pollution control practices on school property.

1. Teacher Training – The County will provide Project WET (Water Education for Teachers) training and curriculum guides for teachers. Project WET is supplemental water education that can be used in science, math, art, physical education and other areas. All activities are hands-on and water related.

- *Community role: Promote training locally and direct interested teachers to the County.*

2. Presentations – The County will provide a speaker and Power Point presentation for classrooms to discuss local water quality issues, including actions that students and their families can take to reduce nonpoint pollution.

- *Community role: Promote presentations locally and direct interested teachers to the County. Assist with implementation duties per the work plan.*

3. Green Schools – The County will help participating schools work through the DNR's "Green & Healthy Schools" program. Assist school teams with completing the "water" and "school grounds" inventories, making recommendations for controlling runoff and reducing water usage. The County may also provide some grant dollars to help implement the recommendations and move toward state certification. (*Note: Separate agreement required between the school and the County.*)

- *Community role: Promote program locally and direct interested schools to the County. Assist with implementation duties per the work plan.*

4. Stream Monitoring – Offer local teachers the opportunity to expose students to a one-time field trip for stream monitoring. Students would collect temperature, turbidity, biotic index, flow and dissolved oxygen. This type of monitoring is primarily designed to educate students on water quality issues and the techniques used to measure the impacts of land use on water quality.

- *Community role: Promote program locally and direct interested teachers to the County.*

Exhibit Y

MS4 Community Fees¹ to Participate in the
Waukesha County Storm Water Education Program
Under NR 216

Category	Community Population	2008 Fee ⁴		2009 Fee ⁵
		Phase 1 ²	Phase 2 ³	Phase 1 & 2
1	0 – 5,000	\$1,050	\$525	\$1,102
2	5,000 – 20,000	\$2,100	\$1,050	\$2,205
3	20,000 – 50,000	\$3,150	\$1,575	\$3,307
4	>50,000	\$4,200	\$2,100	\$4,410

Notes:

1. Community fees are designed to partially offset County costs for staff salaries and benefits, overhead, materials and program support (see intergovernmental agreements for details). Note that the fees may be odd amounts due to percentage increases from previous program years.
2. Phase 1 communities in Waukesha County include:
 - a. Cities of Brookfield, New Berlin, Pewaukee* and Waukesha*
 - b. Villages of Butler, Elm Grove, Menomonee Falls, Pewaukee* and Sussex*
 - c. Towns of Brookfield*, Delafield*, Lisbon* and Waukesha*

* Communities with this symbol are currently participating in the Waukesha County Storm Water Education Program through intergovernmental agreements.
3. Phase 2 communities in Waukesha County include:
 - a. Waukesha County
 - b. Cities of Delafield, Muskego, and Oconomowoc
 - c. Villages of Big Bend, Dousman, Hartland, Lannon, Merton, Mukwonago, Nashotah, North Prairie and Wales
 - d. Towns of Genesee, Merton, Oconomowoc, Summit and Vernon
4. The 2008 fees for Phase 2 communities are ½ of normal fee schedule because their MS4 Permit requirement for storm water education does not take effect until fall of 2008. This fee amount is intended to cover county costs for preparing and obtaining DNR approval of a storm water education plan, meeting with communities, executing intergovernmental agreements, buying I/E materials, preparing a 2009 work plan and other related activities.
5. The 2009 fee amounts represent the full 2008 fee plus 5%, which is the maximum increase allowed under the terms of the intergovernmental agreement. Please note that the actual 2009 fee amount will be based on staff cost increases over the 2008 program, as stated in the intergovernmental agreement.