



**FINAL
INSTITUTIONAL CONTROL IMPLEMENTATION
AND ASSURANCE PLAN FOR THE DELAVAN
MUNICIPAL WELL NO. 4 SUPERFUND SITE,
CITY OF DELAVAN, WISCONSIN**

BRRTS# 02-65-529579

FACILITY ID# 265091640

EPA ID: WID980820062

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Prepared for:
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A handwritten signature in black ink, appearing to read "Mark A. Manthey".

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1.0 INTRODUCTION

This final Institutional Control Implementation and Assurance Plan (ICIAP) was prepared by Tetra Tech, Inc. (Tetra Tech) on behalf of Pentair Flow Technologies for the Delavan Municipal Well No. 4 Superfund Site (the Site) located in the City of Delavan, Walworth County, Wisconsin (Figure 1). The Site is in U.S. Environmental Protection Agency (EPA) Region 5. Institutional controls (ICs) are required to limit land use and prevent groundwater extraction for human consumption on portions of the Pentair Flow Technologies Delavan, Wisconsin facility property (Delavan facility) located at 293 and 175 Wright Street, Delavan, Wisconsin. The contaminated groundwater plume associated with the Site is located on a portion of the Delavan facility property and the portion of the Delavan facility property where contaminant concentrations exceed State of Wisconsin Chapter NR 140 Preventive Action Limits (PALs) require that the Wisconsin Department of Natural Resources (WDNR) be notified in advance of any plans to install or reconstruct water supply wells on the Delavan facility property to prevent extraction for human consumption of the impacted groundwater. Residual trichloroethene (TCE) impacts that remain in the soil in the former sump source area on the Delavan facility property are at levels that are protective of industrial and commercial uses, but are not protective of non-commercial/non-industrial uses. The residual TCE impacts in the former sump source area require an IC to prevent non-commercial/non-industrial uses in this area of the Delavan facility property. The Delavan facility monitoring wells also need to be inspected annually and maintained while they are in use. Pentair Flow Technologies was formerly known as Sta-Rite Industries, Inc. (Sta-Rite) prior to being purchased by Pentair in 2005. The WDNR is the agency responsible for oversight of the ICIAP.

This final ICIAP provides a summary of site conditions and potential risks as they pertain to human health. This plan also provides a summary of the potential receptors and lists ICs that are suggested for implementation.

2.0 SITE DETAILS

2.1 Site Description

The Delavan Municipal Well No. 4 Superfund Site (the Site) is defined as the contaminated portion of the aquifer used by Delavan Municipal Well No. 4. The portion of the aquifer that was contaminated is generally located on the Delavan facility, which is located at 293 and 175 Wright Street in the City of Delavan, Wisconsin. The Site is located on the east side of the City of Delavan near the intersection of Interstate Highway I-43 and State Trunk Highway 50 (E. Geneva Street). Land use in the area is a mix of commercial, industrial, agricultural and residential. The official zoning map of the City of Delavan is provided in Appendix A.

The Delavan facility property, on which the contaminated groundwater plume is located, is approximately 77 acres, has a City of Delavan parcel number of XWUP 00195, is zoned for general manufacturing use and is located in the east half of Section 17, Township 2 North, Range 16 East (Figure 1). The legal description of the Delavan facility property and other property details downloaded from the Walworth County Land Information Division web mapping application is provided in Appendix B. The east half of the Delavan facility property is undeveloped (Figure 2). The west half of the Delavan facility property has two buildings designated as Plant 1 and Plant 2 that are used for the manufacture of water pumps and related products. The Plant 1 building has an address of 293 Wright Street and the Plant 2 building address is 175 Wright Street. Two storage buildings are located north and northeast of Plant 1. Paved areas for employee and visitor parking, outdoor storage and loading docks access are found north, south and east of Plant 1 and Plant 2. Landscaped areas are present on the west side of the property between Wright Street and Plant 1, Plant 2 and the employee and visitor parking lots. The Delavan facility layout is depicted on Figure 3. The groundwater plume is also located on the west half of the Delavan facility property.

Two groundwater extraction wells located in (EX-7R) and downgradient (EX-1) of a source area adjacent to the north wall of Plant 2 referred to as the former sump source area and five groundwater extraction wells (EX-2R, EX-3R, EX-4R, EX-5R and EX-6) located around Plant 1 are operated continuously to contain the groundwater plume within the limits of the Delavan facility property. The groundwater extracted by the extraction wells is discharged to the City of Delavan storm sewer system at four storm sewer manholes on the Delavan facility property under a Wisconsin Pollutant Discharge Elimination Systems (WPDES) permit. The groundwater from extraction wells EX-1, EX-2R, EX-3R and EX-7R is aerated for partial VOC removal at the connections to the storm sewer using spray nozzles. Groundwater from extraction wells EX-4R, EX-5R and EX-6 is used in the Delavan facility to supply a continuous flow of water to open pit test stands used to check the performance and reliability of Pentair's products. The continuous flow keeps the temperature stable and provides more accurate test results. Extraction wells EX-4R, EX-5R and EX-6 also provide the source of water to be purified through reverse osmosis for process water applications. The locations of the extraction wells, extraction wells discharge piping and the storm sewer lines to which the extracted groundwater is discharged are shown on Figure 3.

Delavan Municipal Well No. 4 is located approximately 400 feet west of Plant 2 on the west side of Wright Street (Figure 3). The other properties on Wright Street that are directly west of the Delavan facility consist of industrial and commercial properties. The Delavan facility is bordered on the north by a Wisconsin & Southern Railroad right-of-way and the south by Hobbs Drive. Industrial and commercial properties are located north of the railroad right-of-way and a commercial strip mall shopping center is located south of Hobbs Drive. Other industrial and commercial properties are located east of the Delavan facility property. The land use surrounding the Delavan facility is shown on Figure 2.

Soil sampling activities conducted during the remedial investigation (RI) of the Site in 1991 and 1992 identified three primary source areas on the Delavan facility as follows:

1. The former sump source area near the north wall of Plant 2.
2. An area east of Plant 2 in the vicinity of a drainage swale where spent solvents were reportedly released to the ground surface.
3. A former chip storage area southeast of Plant 1 where spent solvents were reportedly released onto waste metal chips.

In addition, pervasive low-level volatile organic compounds (VOCs) impacts were found beneath the concrete floor of Plant 1 and south of the south wall of Plant 1 beneath paved areas of the property that were determined to be minimally impacting the shallow groundwater based on groundwater sampling results. The locations and dimensions of the three primary source areas and the approximate extent of the low-level VOC impacts to the soil beneath and adjacent to the south wall of Plant 1 are shown on Figure 3. The former chip storage source area is identified as the former chip storage extraction system (CSES) and the former source in the vicinity of the drainage swale east of Plant 2 is identified as the former southeast extraction system (SES) on Figure 3.

Groundwater investigation activities conducted on and around the Delavan facility property during the RI defined the extent of the groundwater plume, demonstrated the portion of the plume associated with the source areas beneath and southeast of Plant 1 were not within the capture zone of Municipal Well No. 4 and that the vertical extent of the plume is limited to the upper 40 feet of the aquifer or approximately 71 feet below ground surface (bgs). The horizontal extent of the groundwater plume in which Chapter NR 140 PALs are exceeded is shown on Figure 4. The plume extent is based on the VOCs analytical results from the most recent groundwater sampling event completed in the second half of 2017. The analytical results from the 2017 sampling event are summarized on Table 1. As shown on Figure 4, the extent of groundwater impacts that exceed applicable PALs is limited to the west half of the Delavan facility property.

Residual TCE impacts in soil that require an IC occur in the former sump source area next to the north wall of Plant 2. An IC is required because TCE concentrations in the soil at a depth of approximately 28 feet bgs are at levels that are not protective of non-commercial/non-industrial uses. The former sump source area measures approximately 54 feet (north-south) by 77 feet (east-west), but the area containing the residual TCE impacts is only approximately 30 feet by 45 feet due to the remedial action activities implemented in the former sump source area from 1983 to 2003. The limits of the former sump source area is shown on Figure 3. Soil sampling conducted in October 2004 in the vicinity of the former location of the sump indicated residual VOCs impacts

remain in the soil at depths of approximately 16 to 28 feet bgs and the TCE concentrations at 28 feet bgs exceed the default EPA regional screening level (RSL) for residential land use of 0.943 mg/kg or 943 ug/kg. Remedial action activities implemented in the former sump source area included excavation of the sump and adjacent impacted soil, flushing of the impacted soil by spray irrigation using a portion of the groundwater extracted from extraction well EX-1, soil vapor extraction (SVE) and heated SVE. The last remedial action performed in the former sump source area was SVE. SVE was discontinued in the former sump source area in December 2003 because soil sample analytical results for soil samples collected from the former sump source area demonstrated there was less than five pounds of VOC impacts remaining in the soil above the water table.

2.2 Site History

The Delavan facility property is zoned for general manufacturing use by the City of Delavan (see official zoning map of the City of Delavan in Appendix A). Manufacturing activities started on the Delavan facility property in 1958 at the location of Plant 1. Plant 1 was built in phases starting in 1958. Additions to the original 1958 building were completed in 1964, 1966, 1974, 1976, 1978, 1976 and 1997. Plant 2 was built in 1968. Based on review of available aerial photographs of the area, the Delavan facility property was vacant prior to the construction of Plant 1 in 1958 and appears to have been used for agricultural purposes.

The Delavan facility manufactures high quality water pumps and related equipment and operated as Sta-Rite Industries until it was purchased by Pentair in 2005 at which time it changed its name to Pentair Flow Technologies LLC. The eastern half of the Delavan facility property is undeveloped (see Figure 2).

The City of Delavan installed Municipal Well No. 4 on the west side of Wright Street in 1968 to augment its water supply system. The property is designated as an Institutional District on the official zoning map of the City of Delavan (see zoning map in Appendix A). The well is housed in a pump house on the east side of the property. Other improvements on the property include a paved driveway to the pump house and a small shed in the northwest corner of the property. The property was vacant land prior to the installation of Municipal Well No. 4.

Contaminants of Concern (COCs)

Various solvents were used in the manufacturing processes at the Delavan facility. TCE was used in Plant 1 and Plant 2 in various manufacturing and cleaning processes until 1977. Other solvents used at the Delavan facility included 1,1,1-trichloroethane (1,1,1-TCA) and tetrachloroethene (PCE). TCE, 1,1,1-TCA and PCE are the primary contaminants of concern (COCs) in the soil and groundwater at the Site. Other VOCs have been detected at relatively low concentrations in soil and groundwater samples collected on the Delavan facility. These low-level VOC detections likely represent miscellaneous small volume releases of solvents and/or degradation products of the COCs.

Releases of solvents from a sump located near the north wall of Plant 2 (former sump source area) and from a series of sumps and floor drains in Plant 1 and the discharge of spent solvents to the

ground surface in a former metal chip storage area southeast of Plant 1 and a drainage swale east of Plant 2 caused impacts of VOCs to the soil in the vicinity of the releases. The soil impacts subsequently impacted the shallow water table aquifer on the Delavan facility property.

Risk Exposure Pathways

The primary health threats for the residual soil and groundwater impacts include the following:

- Direct contact with impacted soil during excavation activities in the former source areas where residual soil impacts occur.
- Contact with impacted groundwater during groundwater sampling activities.

The groundwater plume is currently contained within the property boundaries of the Delavan facility property due to the groundwater extraction system operating on the Delavan facility and therefore the plume is no longer impacting Municipal Well No. 4. There are no water supply wells on the Delavan facility property so the ingestion pathway is not a concern.

The residual soil impacts in the former sump source area occur at depths of 16 to 28 feet bgs and the low-level residual soil impacts beneath and in the vicinity of Plant 1 are either located beneath the concrete floor of the plant or are beneath paved areas next to the south wall of Plant 1 so there is no direct-contact exposure pathway concern under current conditions.

Sampling and analysis of the groundwater entering the storm sewer system from the Delavan facility extraction wells and an air sample collected from one of the storm sewer manholes that receives discharge from three extraction wells during the RI and two additional air samples collected from the storm sewer in 2002 demonstrated that air emissions from the extracted groundwater are well below levels requiring regulatory permits. Sediment and surface water sampling at the point of discharge from the storm sewer system performed as part of the RI demonstrated that the discharge of the extracted groundwater from the Delavan facility to surface water pathway is not a concern.

Quarterly groundwater sampling of monitoring well TW-4 for VOCs analysis was initiated in 2017 at the request of the WDNR and EPA to monitor TCE concentrations in the vicinity of Plant 1 as TCE concentrations in the sample collected from TW-4 in 2015 exceeded the EPA Removal Management Level (RML) of 22 ug/L for TCE, which is used to protect against commercial/industrial exposure via vapor inhalation. TCE concentrations in the groundwater samples collected from TW-4 in 2016 and during the 2017 quarterly sampling events were all below the EPA RML. Quarterly sampling of TW-4 will continue until directed otherwise in writing by the WDNR to confirm the results of the 2016 and 2017 sampling events.

Response Action Summary

In March, 1982, TCE in excess of suggested water quality standards as set by the Wisconsin Department of Health and Social Services was detected in City of Delavan Municipal Well No. 4 during a random public well sampling by the WDNR. Following an investigation of the source of the contamination, a hazard assessment was performed by the EPA utilizing the Hazard Ranking System. The well field scored 28.9, qualifying the site for National Priorities List (NPL) nomination under the Comprehensive Environmental Response, Compensation and Liability Act

(CERCLA). That portion of the aquifer supplying Municipal Well No. 4 was subsequently nominated to the NPL by the EPA in 1983 and listed in 1984.

A number of investigations and several corrective measures were implemented on the Delavan facility after the Site was nominated to the NPL in 1983 to remove and/or contain VOC impacts on the Delavan facility property including the following:

- The sump and adjacent impacted soil in the former sump source area at Plant 2 was excavated and removed in 1983. A portion of the impacted soils were taken off-site for disposal and the remainder were aerated and used as backfill.
- A groundwater extraction system, consisting of five groundwater extraction wells (EX-2, EX-3, EX-4, EX-5 and EX-6) at Plant 1 and one extraction well (EX-1) at Plant 2, was installed in 1984 to remove impacted groundwater and contain the groundwater plume. A second extraction well (EX-7) was installed at Plant 2 in the former sump source area in 1985. The groundwater from four of the extraction wells (EX-1, EX-2, EX-3 and EX-7) is aerated for partial VOC removal by spray nozzles at the connections to the storm sewer. The extracted groundwater is discharged to the storm sewer under a WPDES permit.
- A spray irrigation flushing system was installed in 1984 to spray a portion of the groundwater extracted by extraction well EX-1 onto the ground surface at the Plant 2 former sump source area so that infiltrating water would enhance the removal of VOCs from impacted soils. A gravel trench was installed in the vicinity of the former sump to assist in infiltration. The spray irrigation of groundwater was discontinued in 1988 and all extracted groundwater was then discharged to the storm sewer.
- A soil vapor extraction (SVE) system was installed in the former sump source area at Plant 2 in May, 1988 and operated until 1998 when a heated SVE system was added to enhance VOC removal.

Sta-Rite and the WDNR executed Contract #SF-90-02 with an effective date of September 28, 1990 to conduct a remedial investigation/feasibility study (RI/FS) and remedial design/remedial action (RD/RA) at the Site. Tasks completed under the Contract Statement of Work (SOW) included the following:

- Preparation and submittal of the Site Evaluation Report (SER), which was submitted to the WDNR on October 25, 1990 (Task 1). Preparation and submittal of the project Work Plans, which were submitted to the WDNR February 14, 1991 (Task 2).
- Performance of the remedial investigation, analysis and evaluation of data, and subsequent submittal of Technical Memoranda (TM) (Tasks 3 and 4) from 1991 through 1992.
- Collection of additional data, including pilot testing, to better evaluate potential remedial technology performance (Task 5) in 1992.
- Preparation and submitting of monthly progress reports, a monitoring well evaluation report and four TMs (Task 6) from 1991 through 1992.
- The RI report was prepared and submitted for agency approval in 1993 (Task 6).

- Task 7, community relations support was performed mainly by WDNR.
- Interim Remedial Measures (IRMs) were planned to accelerate site remediation (Task 8), and a Focused Feasibility Study (FFS) was prepared, submitted and subsequently approved by WDNR in 1993. The FFS was developed utilizing applicable procedures outlined in Task 9, 10, and 11 of the SOW, which specify requirements for FS preparation. The FFS, however, had a limited number of remedial alternatives per Task 8 of the SOW, therefore not all of the procedures in Tasks 9, 10, and 11 of the SOW applied.

In 1993, a new air stripping facility was installed to treat the groundwater pumped from Delavan Municipal Well No. 4 and one other municipal well. The air stripping facility removed all measureable contamination before discharge to the water supply system. City of Delavan groundwater monitoring records showed the raw water from Well No. 4 has not exceeded Chapter NR 140 enforcement standards (ESs) for TCE, TCA, PCE and vinyl chloride since 1993.

The IRMs implemented on the Delavan facility included construction of dual soil vapor extraction/groundwater extraction (SVE/GWE) systems in the former chip storage source area located southeast of Plant 1 and the source area located in the drainage swale east of Plant 2. The dual SVE/GWE system in the former ship storage source area southeast of Pant 1 is identified as the former chip storage extraction system (CSES) and the dual SVE/GWE system in the source area east of Plant 2 is identified as the southeast extraction system (SES) as it is located on the southeast side of the Delavan facility. The existing SVE system in the former sump source area adjacent to the north wall of Plant 2 was also upgraded as part of the IRMs. The CSES, SES and upgraded SVE system in the former sump source area were brought on-line in June 1994. Quarterly groundwater sampling from select Delavan facility monitoring wells and extraction wells was also started at this time. The sampling frequency was reduced to semi-annually in 1998 and to annually in 2004. The progress in implementing and operating the IRMs and the results from the groundwater sampling events were documented in progress reports that were submitted on a quarterly to annual basis to the WDNR and Wisconsin Department of Health Services.

In 1997 extraction well EX-2 was decommissioned because of the expansion of the office space in the Plant 1 building. A replacement extraction well was installed approximately 28 feet north and 79 feet west of the former location of EX-2. The replacement extraction well was given the designation EX-2R and its location is shown on Figure 3.

In 1998 the SVE system in the former sump source area was converted to a heated SVE system to enhance the removal of the VOC impacts. The heated SVE system was operated from August 1998 until the end of 2001 at which point the system was converted back to SVE only as the VOC removal rate using heated SVE had fallen below the removal rates that existed before heated SVE was implemented.

The EPA issued a record of decision (ROD) for the final remedy for the Site on September 28, 2000. The ROD selected no further action under CERCLA authorities because the existing and planned response action under State authorities, including operation and maintenance of the existing groundwater extraction system, the former sump source area SVE system, and the two dual SVE/GWE systems, was progressing to meet the remedial action objectives (RAOs) of the ROD. The ROD states that no further action is necessary for the Site other than the continued

operation and maintenance (O&M) of the Interim RA. A copy of the ROD is provided in Appendix C.

Sampling of the raw water intake at Delavan Municipal Well No. 4 in 2000 demonstrated that VOCs are no longer present in the groundwater extracted by Well No. 4. In 2000, Delavan Municipal Well No. 4 was brought back on-line as a water supply well and is fully functional.

SVE from the CSES and SES was discontinued on March 18, 2002 per the recommendations made in the February 1999 through April 2001 progress report (GeoTrans, Inc., July 6, 2001) as soil sampling conducted in the CSES and SES demonstrated no COCs impacts remained in the soil above the water table in both areas. The end of SVE in the CSES and SES was approved by the WDNR in a letter dated February 13, 2002.

Surface water samples were collected from the detention pond located southeast of the Delavan facility on July 25, 2002 and August 15, 2002 (Figure 2). The surface water samples were submitted for laboratory analysis of VOCs. None of the Site COCs were detected in the surface water samples indicating the surface water in the detention pond is not impacted with the site COCs.

Two sets of air samples were collected from the storm sewer manhole from which the combined effluent sample from the Delavan facility groundwater extraction wells is collected (sample point ID SS-1) for the WPDES permit reporting. The first air sample was collected on September 3, 2002 and second air sample was collected on November 8, 2002. Both air samples were submitted for laboratory analysis of VOCs. No VOCs were detected in either air sample indicating the groundwater discharged to the storm sewer from the Delavan facility extraction wells is not impacting air quality within the storm sewer system.

The SVE system located in the former sump source area was shut down on December 9, 2003 per the recommendation contained in the 2003 Annual Progress Report for the Delavan facility (GeoTrans, March 29, 2004). SVE was discontinued because analytical results for soil samples collected in 2003 from the former sump source area indicated there were less than five pounds of residual VOC impacts remaining in the soil above the water table. Additional soil sampling conducted in October 2004 confirmed the 2003 sampling event results that the mass of residual VOC impacts above the water table in the former sump source area is less than five pounds. The analytical results from the 2003 and 2004 soil sampling events are summarized on Table 2. The recommendation to discontinue SVE in the former sump source area was approved by the WDNR in a letter dated April 22, 2004.

Since 2002, groundwater was not able to be extracted from the dual SVE/GWE wells in the SES area because none of the submersible pumps in the dual SVE/GWE wells were operational. Fine-grained sediment that entered the wells during the operation of the dual SVE/GWE system clogged the well screens and caused the pumps in the dual SVE/GWE wells to fail. Attempts to remove the submersible pumps from the dual SVE/GWE wells in the SES area in 2003 were unsuccessful due to the presence of the fine-grained sediment in the wells. Groundwater extraction from the dual SVE/GWE wells in the CSES area was also stopped on December 23, 2003. The suspension of groundwater extraction from the SES and CSES areas was also approved by the WDNR in the April 22, 2004 letter.

In accordance with the recommendation made in the May 2001 through December 2002 progress report (GeoTrans, January 28, 2003), a groundwater investigation was performed in the CSES and SES areas in 2003. Four temporary monitoring wells (TW-303, TW-304, TW-305, and TW-306) were installed in and around the SES area, and two rounds of groundwater samples were collected from the temporary monitoring wells to document the degree and extent of residual groundwater impacts. Three temporary monitoring wells were slated to be installed around the CSES but the wells could not be installed in this area due to the presence of cobbles and boulders at depth. Because the temporary monitoring wells could not be installed around the CSES area, two rounds of groundwater samples were collected from the operational SVE/GWE wells in the CSES and from existing monitoring well MW-1026 located approximately 113 feet downgradient of the CSES. Another round of groundwater samples were also collected from the temporary monitoring wells installed in the SES area on September 17, 2004. The groundwater analytical results from the CSES/SES investigations and the normal sampling round conducted in September 2004 showed TCE was the only contaminant present above its Chapter NR 140 ES in both areas.

The temporary monitoring wells installed in and downgradient of the SES and the SVE and dual SVE/GWE wells of the SES and CSES were abandoned in 2006 as the remedial action in both areas was complete. Monitoring well MW-2005 was also abandoned in 2006 because the well casing was damaged, which prevented collecting groundwater samples from the well. In 2007 a replacement monitoring well (MW-2005R) was installed near the former location of MW-2005 and a new water table monitoring well (MW-2011) was installed west of the former SES to provide a permanent monitoring point downgradient of the former southeast source area. Both monitoring wells were added to the groundwater monitoring plan of the Delavan facility in 2007. The SVE wells in the former sump source area were decommissioned in May 2009.

Quarterly groundwater sampling of monitoring well TW-4 for VOCs analysis was initiated in 2017 at the request of the WDNR and EPA to monitor TCE concentrations in the vicinity of Plant 1. The additional groundwater sampling at TW-4 was requested because TCE concentrations in the groundwater sample collected from TW-4 in 2015 exceeded the EPA RML of 22 ug/L for TCE, which is used to protect against commercial/industrial exposure via vapor inhalation. TCE concentrations in the groundwater samples collected from TW-4 in 2016 and during the 2017 quarterly sampling events were all below the EPA RML. Quarterly sampling of TW-4 will continue until directed otherwise in writing by the WDNR.

Four replacement groundwater extraction wells were installed on the Delavan facility in 2017 to replace original extraction wells EX-3, EX-4, EX-5 and EX-7 because the sustainable pumping rates of these wells had declined due to clogging of the well screens. The installation of the replacement extraction wells was mentioned in the 2016 annual progress report for the Delavan facility (Tetra Tech, January 11, 2017). The four replacement extraction wells, which are designated EX-3R, EX-4R, EX-5R and EX-7R, were brought on-line in September 2017. The original extraction wells were properly abandoned in August and September. The locations, ground surface elevations and top of well casing elevations of the four replacement extraction wells were surveyed by a State of Wisconsin licensed surveyor on September 26, 2017. Copies of the WDNR Well Construction Reports for the four replacement extraction wells and the WDNR Well Filling & Sealing Forms for the four original extraction wells that were abandoned were included as an appendix to the third quarter 2017 progress report (Tetra Tech, October 6, 2017).

The locations of the replacement extraction wells and the former locations of the original extraction wells are shown on Figure 3.

Since 2000, the groundwater analytical results presented in the annual progress reports have shown a steady decline in the VOCs impacts in groundwater and soils at the Site. Because of the significant reductions in VOCs observed in Site monitoring wells, operation of the CSES and SES dual SVE/GWE systems and operation of the former sump source area SVE system were discontinued as described above. The seven groundwater extraction wells that comprise the Delavan facility groundwater extraction system remain in operation to control off-site migration of the groundwater plume.

Cleanup Objectives

The primary cleanup objectives described in the ROD for the Site were:

1. To meet groundwater PALs pursuant to Chapter NR 140, Wisconsin Administrative Code.
2. To remediate unsaturated soil in accordance with Chapter NR 720, Wisconsin Administrative Code (See page 6 of the ROD).

Substantive Use Restrictions Identified in the Decision Document(s)

A decision document recording a final decision to add ICs as a component of the selected remedy has not yet been issued for the Site. As stated in the third five-year review of the Site, “*a decision document is needed to record a final decision to add institutional controls (ICs) as a component of the selected remedy; ICs need to be implemented; and an Institutional Control Implementation and Assurance Plane (ICIAP) needs to be developed to ensure that effective ICs are implemented monitored, maintained, and enforced.*” (WDNR, August 17, 2015).

The ICs proposed in this final ICIAP are intended to address the groundwater plume located on the west half of the Delavan facility and the residual TCE impacts in the soil at a depth of approximately 28 feet bgs in the former sump source area. The proposed ICs require notification of the WDNR before the construction or reconstruction of water supply wells on the Delavan facility property to prevent groundwater extraction for human consumption until such a time as the VOC concentrations in the on-site plume fall below applicable Chapter NR 140 PALs and would limit the use of the land in the former sump source area to commercial or industrial. Both ICs are already in place for the Delavan facility property.

Current and Reasonably Anticipated Future Land Use

As described above, the Delavan facility property is currently zoned for general manufacturing. The east half of the Delavan facility property is currently vacant and the west half of the property is used to manufacture high quality water pumps and related equipment. Future land use for the Delavan facility property is anticipated to remain the same.

The Delavan Municipal Well No. 4 property is used as a municipal water supply for the City of Delavan and is designated as an Institutional District on the official zoning map of the City of Delavan. Future land use for the Municipal Well No. 4 property is anticipated to remain the same.

2.3 Property Information and IC Stakeholder Contacts

The areas requiring ICs are located entirely within the boundaries of the Delavan facility property. Property ownership information for the Delavan facility property is listed below. Additional information on the Delavan facility property including property tax records are provided in Appendix B. There are no other responsible parties or property interests for the Delavan facility property.

Owner Name: Pentair Flow Technologies LLC

Mailing Address: 5500 Wayzata Blvd., Suite 800, Golden Valley, MN 55416

Responsible party (RP) correspondence can be directed to the following:

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Telephone: (262)728-5585

2.4 Accurate Mapping of Residual Contamination

The boundaries of the former sump source area in which residual TCE impacts that require an IC to prohibit non-commercial/non-industrial uses are shown on Figure 3. As noted in Section 2.1, the former sump source area measures approximately 54 feet (north-south) by 77 feet (east-west), but the area containing the residual TCE impacts is only approximately 30 feet by 45 feet due to the remedial action activities implemented in the former sump source area from 1983 to 2003. Soil sampling conducted in the vicinity of the former location of the sump after the SVE system was shut down indicates residual VOCs impacts remain in the soil at depths of approximately 16 to 28 feet bgs and the TCE concentrations at 28 feet bgs exceed the default EPA residential RSL of 0.943 mg/kg or 943 ug/kg. The TCE concentrations at 28 feet bgs indicate an IC is required for the former sump source area to prohibit non-commercial/non-industrial uses. The limits of the area beneath and south of Plant 1 containing the pervasive low-level residual VOCs impacts in soil is also depicted on Figure 3 so that plans can be made for the proper testing, handling and disposal of potentially impacted soil should excavation work be conducted in this area in the future.

The extent of the groundwater plume in which Chapter NR 140 PALs are exceeded is shown on Figure 4. The plume extent is based on the VOCs analytical results from the most recent groundwater sampling event completed in the second half of 2017 (Table 1). As Figure 4 shows, the extent of groundwater impacts that exceed applicable PALs is limited to the west half of the Delavan facility property. The locations of the extraction wells and associated discharge lines and the storm sewer system piping to which the groundwater is discharged are also shown on Figure 4. An IC that requires parties to notify the WDNR prior to installing or reconstructing a water supply well on the Delavan facility property is required to prevent groundwater extraction for human consumption from the groundwater plume located on the Delavan facility property. The legal description of the Delavan facility property is provided in Appendix A.

3.0 KEY ELEMENTS FOR PLANNED/IMPLEMENTED ICs

The ICs used for the residual soil impacts and the groundwater plume located on the Delavan facility property will involve listing the Delavan facility continuing obligations (COs) on the WDNR's geographic information system (GIS) Registry, which is accessed via the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web database, at <http://dnr.wi.gov/topic/Brownfields/clean.html>. The GIS Registry for the Site already includes a statement that the WDNR must be contacted before constructing or reconstructing a water supply well on the Site. A copy of the BRRTS listing for the Site and the cover sheet listing the COs are provided in Appendix D. The RP has been notified via a letter dated October 25, 2017 that approved COs will be included in the BRRTS on the Web database upon approval of the ICIAP. The BRRTS listing also includes a statement that some contamination remains on the site.

3.1 General Elements

The general elements of the ICs proposed for the Delavan facility are described below. The properties of the ICs for the Delavan facility property are illustrated on an IC relationship matrix, which is provided as Table 3.

1. *Instrument Name:* GIS Registry, Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web database.

Instrument Type: S. 292.12, Wisconsin Statutes for all COs and NR 812.09(4)(w), Wisconsin Administrative Code, for the CO requiring prior WDNR approval before a water supply well is constructed or reconstructed on the property.

Entity Responsible for Implementation: WDNR.

Implementation Event Date: Implemented. The COs are listed on the GIS Registry for the Site. See BRRTS list and COs cover sheet in Appendix D. As noted above, approved COs will be included in the BRRTS on the Web database upon approval of the ICIAP.

Substantive use Restrictions Achieved by this IC: The requirement to provide prior notification to the WDNR before a water supply well will be constructed or reconstructed on the Delavan facility property allows the WDNR to restrict groundwater use on the property. The notice of residual contamination requires impacted soil to be properly managed if it is excavated.

Legal Description of Restricted Areas: The legal description of the Delavan facility property is provided in Appendix B. The boundaries of the former sump source area containing the residual TCE impacts that are not protective of non-commercial/non-industrial uses and the area of pervasive low-level VOCs beneath and south of Plant 1 in which potentially impacted soil should be properly managed if excavated are shown on Figure 3. The limits of the groundwater plume in which applicable Chapter NR 140 PALs are exceeded is shown on Figure 4.

IC Instrument Lifespan: The IC requiring WDNR approval if a water supply well is to be constructed or reconstructed on the Delavan facility property to prevent groundwater use for human consumption should be maintained until contaminant concentrations in the groundwater plume fall to levels that are below applicable Chapter NR 140 PALs. The requirement to notify the WDNR prior to constructing or reconstructing a water supply well on the Delavan facility property will remain in effect as long as the Site is on the GIS Registry, but the WDNR may approve the construction or reconstruction of a water supply well on the Delavan facility after contaminant concentrations in the groundwater plume fall below applicable NR 140 PALs. The CO requiring proper management of excavated impacted soil should remain in place until natural attenuation processes reduce residual contaminant concentrations to levels that are below direct contact, ingestion and inhalation health risks and are protective of the soil to groundwater pathway.

Potential Barriers to IC Implementation: None. These ICs have already been implemented.

2. *Instrument Name:* Property Zoning.

Instrument Type: City of Delavan zoning ordinance listing the land use of the Delavan facility property as general manufacturing.

Entity Responsible for Implementation: City of Delavan Building & Zoning Department.

Implementation Event Date: Implemented. The Delavan facility property is already zoned for general manufacturing use.

Substantive use Restrictions Achieved by this IC: Limits land use of the Delavan facility property to general manufacturing.

Legal Description of Restricted Areas: The legal description of the Delavan facility property is provided in Appendix B. The limits of the former sump source area in which residual TCE impacts at 28 feet bgs are at levels that are not protective of non-commercial/non-industrial uses is shown on Figure 3.

IC Instrument Lifespan: The IC restricting land use on the Delavan facility property in the former sump source area to commercial or industrial should be maintained until the residual TCE impacts at 28 feet bgs are remediated via natural attenuation processes to concentrations that are below its default EPA residential RSL of 943 ug/kg.

Potential Barriers to IC Implementation: None. This IC has already been implemented.

3. *Instrument Name:* WPDES Permit.

Instrument Type: Chapter 283, Wisconsin Statutes.

Entity Responsible for Implementation: WDNR.

Implementation Event Date: Implemented. The Delavan facility groundwater extraction system already has a WPDES Permit. A copy of the WPDES Permit is provided in Appendix E.

Substantive use Restrictions Achieved by this IC: Limits the concentrations of the Site COCs that can be discharged to the storm sewer at the designated outfall (SS-1) of the combined effluent from the seven Delavan facility extraction wells.

Legal Description of Restricted Areas: The legal description of the Delavan facility property is provided in Appendix B. The locations of the Delavan facility extraction wells, the extraction wells discharge piping and the storm sewer piping to which the groundwater from the extraction wells is discharged are shown on Figure 3.

IC Instrument Lifespan: The WPDES Permit should remain in effect until such time as the Delavan facility groundwater extraction system is permanently shut down. The current WPDES Permit expires September 30, 2020. If Pentair Flow Technologies wishes to continue to discharge after the expiration date, an application for reissuance of the permit shall be filed, according to Chapter NR 200, Wisconsin Administrative Code, at least 180 days prior to the expiration date.

Potential Barriers to IC Implementation: None. This IC has already been implemented.

3.2 Elements Specific to Instrument Category

3.2.1 Proprietary Controls

The ICs are implemented for the Delavan facility property. The Delavan facility property is wholly owned by Pentair Flow Technologies LLC. Documents demonstrating Pentair Flow Technologies ownership of the Delavan facility property is provided in Appendix B.

3.2.2 Government Controls

Summary of State Government Processes:

1. S. 262.12, Wisconsin Statutes for Site COs and listing the Site on WDNR's GIS Registry, which is accessed via the BRRTS on the Web database.
2. NR 812.09(4)(w), Wisconsin Administrative Code, for the CO requiring prior WDNR approval before a water supply well is constructed or reconstructed on the Delavan facility property.
3. Chapter 283, Wisconsin Statutes for the WPDES Permit for the Delavan facility groundwater extraction system.

State Government Departments Contact Information:

1. For GIS Registry, BRRTS on the Web database and COs:
Wisconsin Department of Natural Resources
Bureau for Remediation and Redevelopment

101 S. Webster Street, P.O. Box 792
Madison, WI 53707-7921
Telephone: (608)266-2621

2. For WPDES Permit:
Wisconsin Department of Natural Resources
Southeast Region Headquarters
2300 N Dr. ML King Drive
Milwaukee, WI 53212
Telephone: (414)263-8500

Summary of Local Government Processes:

1. City of Delavan Zoning Ordinance, which designates the Delavan facility property General Manufacturing thereby limiting land use to manufacturing purposes.

Local Government Department Contact Information:

1. City of Delavan
Building & Zoning Department
Delavan Municipal Building
123 South 2nd Street
Delavan, WI 53115
Telephone: (262)728-5585

3.2.3 Enforcement and Permit Tools with IC Components

The WDNR has the authority to enforce the regulations specified in Chapter NR 812 of the Wisconsin Administrative Code, which includes needing prior WDNR approval for the construction or reconstruction of a water supply well on a property. The prior notification requirement for the Site is listed on the GIS Registry.

The City of Delavan Building & Zoning Department zoned the Delavan facility property as General Manufacturing. Pentair Flow Technologies as owner of the Delavan facility property is required to comply with the land use regulations for properties zoned as General Manufacturing as specified in the City of Delavan Zoning Code. A copy of Subchapter 23-2: Land Use Regulations, of the City of Delavan Zoning Code is provided in Appendix E.

The WDNR issued the WPDES permit to Pentair Flow Technologies to operate the Delavan facility groundwater extraction system. The WPDES Permit specifies discharge limits for the Site COCs, vinyl chloride and total phosphorus for the effluent sample collected from the groundwater extraction system at the designated sampling point (SS-1) and also requires that the monthly samples be tested for temperature, total suspended solids and chloride in addition to the parameters that have discharge limits. Testing procedures, records retention requirements and reporting requirements are also specified in the WPDES Permit. Requirements for notifying the WDNR of

a violation of the discharge limits and for reporting the measures that were taken or will be taken to address a violation are also specified in the WPDES Permit.

3.2.4 Information Devices

BRRTS on the Web (<http://dnr.wi.gov/topic/Brownfields/clean.html>) is the WDNR's on-line database that provides information about contaminated properties and other activities related to the investigation and cleanup of contaminated soil or groundwater in Wisconsin. The database is part of the WDNR's Wisconsin Remediation and Redevelopment Database (WRRD), an inter-linked system tracking information on different contaminated land activities.

The database includes (but is not limited to) the following contamination data:

1. Investigations and cleanups of contaminated soil and/or groundwater.
2. Spills.
3. Superfund sites.
4. WDNR funding assistance.

The WDNR Bureau for Remediation and Redevelopment is responsible for ensuring that the BRRTS on the Web database operates as planned. People or entities interested in purchasing the Delavan facility property or interested in installing a water supply well on the property would benefit most from notification of the residual impacts on the property as it may affect their planned use of the property. Issues that may adversely impact the effective implementation or maintenance of the information provided on the BRRTS on the Web database include the following:

1. Temporary power interruptions preventing on-line access to the BRRTS on the Web database.
2. Damage to the servers used to store the information contained in the BRRTS on the Web database and that manages network traffic.
3. Data entry errors.

The Walworth County Land Information System OneView web mapping application (<https://gisinfo.co.walworth.wi.us/oneview/>) is a GIS website that provides online access to Walworth County land information. Information available on the website includes property ownership, tax parcel numbers, tax records, land valuation, property size and survey history. The OneView GIS website is maintained by the Walworth County Land Information Division. People or entities interested in purchasing the Delavan facility property or the tax history of the property would benefit most from the information provided on OneView web mapping application. Issues that may adversely impact the effective implementation or maintenance of the information provided on the OneView web mapping application include the following:

1. Temporary power interruptions preventing on-line access to the OneView website.
2. Damage to the servers used to store the information contained in the OneView web mapping application database and that manages network traffic.
3. Data entry errors.

Zoning information, the official zoning map of the City of Delavan and the City of Delavan Zoning Code can be accessed on the City of Delavan website (<http://ci.delavan.wi.us/>). People or entities interested in the current land use of the Delavan facility property and what activities are permitted on the property would benefit most from the information provided on the City of Delavan website. The City of Delavan website is maintained by the City of Delavan. Issues that may adversely impact the effective implementation or maintenance of the information provided on the City of Delavan website include the following:

1. Temporary power interruptions preventing on-line access to the City of Delavan website.
2. Damage to the servers used to store the information contained in the City of Delavan website database and that manages network traffic.
3. Data entry errors.

4.0 IC MAINTENANCE ELEMENTS

The groundwater monitoring and reporting that is currently being done at the Delavan facility will be continued to insure that the ICs are in place and functioning as intended. Inspection of the surface conditions in the former sump source area and the area beneath and south of Plant 1 where low-level VOCs impacts are present in the soil and confirmation that the Delavan facility property continues to be zoned as General Manufacturing will also be implemented to insure the ICs are in place and functioning as intended.

Tetra Tech personnel are responsible for collecting the groundwater samples from the Site monitoring wells and extraction wells that are part of the Site groundwater monitoring program and for preparing the reports. Pentair Flow Technologies Delavan facility personnel are responsible for collecting the combined groundwater effluent samples at the storm sewer outfall (SS-1 sample location) for the WPDES permit. Tetra Tech personnel will perform the Site inspections and confirm the Delavan facility property continues to be zoned as General Manufacturing. Any recommended or necessary changes to the ICIAP based on the past year's observations will be included in the annual progress reports. Pentair Flow Technologies personnel will be responsible for maintaining the clean soil and asphalt cover over the former sump source area where TCE impacts in the sub-surface soils exceed levels that are not protective of non-commercial/non-industrial uses and the concrete floor and asphalt cover over the area beneath and south of Plant 1 containing pervasive low-level VOCs impacts in the sub-surface soils.

The ICIAP will be updated if Site conditions or Site ownership changes or if there are changes to the personnel or government agencies listed in the current ICIAP. The updated sections of the ICIAP will be noted in a cover letter that will accompany the updated ICIAP. The ICIAP will also be updated upon request by the WDNR.

4.1 IC Assurance Monitoring

The monitoring activities that are in place and that will be continued include the following:

1. Monthly collection of water samples at the storm sewer outfall (SS-1) where the combined effluent from the Delavan facility groundwater extraction wells discharges. The samples are tested in the field for temperature, pH and electrical conductance and submitted for laboratory analysis of TCE, 1,1,1-TCA, 1,1,2-TCA, PCE and vinyl chloride by EPA Method 8260B, total suspended solids by Method SM 2540D, chloride by Method SM 4500 Cl and total phosphorus by Method SM 4500 P.
2. The collection of quarterly groundwater samples from monitoring well TW-4 for laboratory analysis of VOCs by EPA Method 8260B
3. Conducting the annual groundwater monitoring event on the Delavan facility, which is normally done in July. The monitoring wells and extraction wells that are sampled as part of the annual groundwater monitoring program for the Delavan facility are listed on Table 4. The groundwater sample collected from TW-4 is submitted for laboratory analysis of VOCs by EPA Method 8260B and the groundwater samples collected from the other wells

are submitted for laboratory analysis of TCE, 1,1,1-TCA, 1,1,2-TCA, PCE and vinyl chloride by EPA Method 8260B. Additional tasks performed during the annual monitoring events include collecting depth to groundwater measurements from all existing and accessible Delavan facility monitoring wells and inspecting the monitoring wells for damage to their protective cover, well casing and surface seal and performing any required maintenance or repairs.

Inspecting the surface conditions in the former sump source area and the area beneath and south of Plant 1 where the low-level residual VOCs impacts to the soil occur will be added to the tasks to be performed during the annual groundwater monitoring events. The inspections will include taking photographs to document surface conditions in both areas and any changes which occurred between inspections. A general inspection of the entire Delavan facility property will also be performed as part of the annual monitoring event to document any changes in land use that may have occurred between monitoring events. The City of Delavan Building & Zoning Department Official Zoning Map will also be checked annually to confirm the Delavan facility property continues to be zoned General Manufacturing. The current ownership of the Delavan facility property will also be confirmed annually.

Collection of the monthly water samples at the SS-1 outfall and maintenance of the Delavan facility groundwater extraction system is and will continue to be performed by Pentair Flow Technologies personnel. Maintenance of the covers in the former sump source area and the area beneath and south of Plant 1 where the sub-surface soil impacted with low-level residual VOCs impacts occurs will also be the responsibility of Pentair Flow Technologies personnel. Contact information for the Pentair Flow Technologies personnel responsible for ensuring the tasks for which Pentair Flow Technologies is responsible are completed are listed below:

Steve Scharinger, Environmental Health and Safety Manager
Pentair Flow Technologies
293 Wright Street
Delavan, WI 53115
Telephone: (262)728-7408
Email: Steven.Scharinger@Pentair.com

Tom Samuel, Maintenance and Facilities Manager
Pentair Flow Technologies
293 Wright Street
Delavan, WI 53115
Telephone: (262)728-7428
Email: Thomas.Samuel@Pentair.com

The collection of the quarterly groundwater samples from monitoring well TW-4 and completing the annual monitoring and inspection tasks outlined above will be performed by Tetra Tech personnel on behalf of Pentair Flow Technologies. The Tetra Tech person responsible for seeing that these tasks are completed is listed below:

Mark Manthey, P.G., Associate Hydrogeologist
Tetra Tech
175 N. Corporate Drive, Suite 100
Brookfield, WI 53045
Telephone: (262)792-1282, extension 271
Email: Mark.Manthey@tetratech.com

The WDNR also performs a site inspection of the Delavan facility and interviews pertinent Pentair Flow Technologies personnel as part of the five-year review process for the Site. Contact information for the WDNR person responsible for the five-year reviews is listed below:

Tom Wentland, Waste Management Engineer
Wisconsin Department of Natural Resources
1155 Pilgrim Road
Plymouth, WI 53073
Telephone: (920)893-8528
Email: thomas.wentland@wisconsin.gov

4.2 Reporting

The results from the monthly sampling at the SS-1 outfall are and will continue to be reported to the WDNR in monthly and quarterly electronic discharge monitoring reports (eDMRs), which are prepared by and electronically submitted to the WDNR by Tetra Tech personnel on behalf of Pentair Flow Technologies. The total flow rate in millions of gallons per day of the Delavan facility groundwater extraction system, the sample temperature measured in the field and the results of the total suspended solids, total phosphorus, TCE, TCA, PCE and vinyl chloride analyses are reported in the monthly eDMRs. The total chloride results are reported in the quarterly eDMRs. Electronic copies (PDF files) of the laboratory reports for the monthly SS-1 samples are also submitted via email monthly by Tetra Tech personnel to the WDNR wastewater engineer responsible for managing the WPDES Permit for the Delavan facility groundwater extraction system. Contact information for the WDNR person currently receiving the electronic copies of the monthly SS-1 samples analytical reports is provided below:

Andrew Greer, Wastewater Engineer
Wisconsin Department of Natural Resources
Division of Environmental Management
2300 N. Dr. Martin Luther King Jr. Dr.
Milwaukee, WI 53212
Telephone: (414)263-8650
Email: Andrew.Greer@wisconsin.gov

Tetra Tech personnel are and will continue to be responsible for preparing and submitting the quarterly reports presenting the results of the quarterly samples collected from monitoring well TW-4 and the annual progress reports, which present the results of the annual sampling and monitoring activities described in Section 4.1. Photographs documenting the surface conditions in the former sump source area and the area beneath and south of Plant 1 containing the low-level residual VOCs soil impacts, photographs documenting the land use on the Delavan facility

property, and documents confirming the Delavan facility property continues to be zoned General Manufacturing and the current ownership of the Delavan facility property will be included in the annual progress reports. Any recommended or necessary changes to the ICIAP based on the past year's observations will be included in the annual progress reports. Updating the ICIAP, if required, will also be the responsibility of Tetra Tech personnel. The quarterly TW-4 monitoring reports and annual progress reports are submitted to the WDNR, Wisconsin Department of Health Services and EPA. Updates to the ICIAP will also be submitted to the WDNR, Wisconsin Department of Health Services and EPA. Contact information for the personnel in the WDNR, Wisconsin Department of Health Services and EPA that currently receive the quarterly reports and annual progress reports are provided below:

Tom Wentland, Waste Management Engineer
Wisconsin Department of Natural Resources
1155 Pilgrim Road
Plymouth, WI 53073
Telephone: (920)893-8528
Email: thomas.wentland@wisconsin.gov

Robert Thiboldeaux, PhD, Senior Toxicologist
Bureau of Environmental Occupational Health
Wisconsin Department of Health Services
1 West Wilson Street, Room 150
Madison, WI 53703
Telephone: (608)267-6844
Email: Robert.Thiboldeaux@wi.gov

Michelle Heger
U.S. Environmental Protection Agency Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3507
Telephone: (312)886-4510
Email: Heger.michelle@Epa.gov

The five-year review reports are prepared by the WDNR. Copies of the five-year review reports are retained in the EPA Region 5 files for the Delavan Municipal Well No. 4 Superfund Site.

EPA Region 5 Office
Ralph Metcalfe Federal Building
77 West Jackson Blvd.
Chicago, IL 60604
Telephone: (312)353-2000

Electronic versions of the reports are also available on the EPA's Delavan Municipal Well No. 4 Superfund Site website at

<https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.ars&id=0505165&doc=Y&colid=4927®ion=05&type=AR>.

5.0 ENFORCEMENT ELEMENTS

The WDNR has the authority to enforce and issue a citation for the requirement of prior notification before constructing or reconstructing a water supply well on the Delavan facility property per NR 812.45, Wisconsin Administrative Code.

Under Subchapter 24-9, Section 24.932 of the City of Delavan Zoning Code, the Building Inspector or a designee of the Building Inspector is given authority to enforce the provisions of the Zoning Code. The Building Inspector or a designee of the Building Inspector would therefore have the authority to enforce the land-use limits specified for properties zoned General Manufacturing, which is the zoning classification of the Delavan facility property.

Under S. 283.89, Wisconsin Statutes, The WDNR has the authority to refer to the department of justice for enforcement if any of the terms or conditions of the WPDES Permit for the Delavan facility groundwater extraction system are violated.

5.1 Enforcement Entities and Procedures

An enforcement action may be appropriate to enforce the use restrictions specified by the ICs for the Delavan facility property or the discharge limits specified by the WPDES permit for the Delavan facility groundwater extraction system to protect public health and the environment. The enforcement triggering events as they pertain to the ICs would include the following:

1. Failure to notify the WDNR before constructing or reconstructing a water supply well on the Delavan facility property. As noted above, NR 812.45, Wisconsin Administrative Code gives the WDNR the authority to enforce this requirement. The citation and notification procedures are specified in NR 812.45, Wisconsin Administrative Code. A copy of NR 812.45, Wisconsin Administrative Code is provided in Appendix G.
2. Using the land in the former sump source area for non-commercial/non-industrial purposes. As noted above, the City of Delavan Building Inspector or a designee of the Building Inspector has the authority to enforce the land-use limits specified for the Delavan facility property, which is General Manufacturing, under Subchapter 24-9, Section 24.932 of the City of Delavan Zoning Code. The procedures followed and penalties issued for violations of the Zoning Code are specified in Subchapter 24-9 of the City of Delavan Zoning Code. A copy of Subchapter 24-9: Administration and Enforcement is provided in Appendix F.
3. Failing to report and make modifications or repairs to the Delavan facility groundwater extraction system if the discharge limits specified in the WPDES Permit for the SS-1 samples are exceeded. As noted above, the WDNR, under S. 2893.89, Wisconsin Statute, has the authority to refer to the department of justice for enforcement if any of the terms or conditions of the WPDES Permit for the Delavan facility groundwater extraction system are violated. A copy of S. 283.89, Wisconsin Statutes is provided in Appendix G.

6.0 IC MODIFICATION & TERMINATION ELEMENTS

Modification to the ICs may be required if changes are made to the Delavan facility operations or structures that would require excavation or exposure of the residual VOC soil impacts that remain on the property or the configuration or size of the groundwater plume changes. Any modification to the ICs should be documented in a decision document consistent with existing EPA guidance.

Termination of the IC prohibiting non-commercial/non-industrial uses in the former sump source area may occur if the residual TCE impacts triggering this IC are removed or remediated via natural attenuation processes to concentrations below the default EPA residential RSL of 943ug/kg. The IC requiring prior notification to the WDNR of the construction or reconstruction of a water supply well on the Delavan facility property in order to prohibit groundwater use for human consumption could be terminated if contaminant concentrations in the on-site plume fall below applicable Chapter NR 140 PALs.

7.0 REFERENCES

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Simon Hydro-Search, March 12, 1993, *Remedial Investigation of the Sta-Rite Industries Site, Delavan, Wisconsin*.

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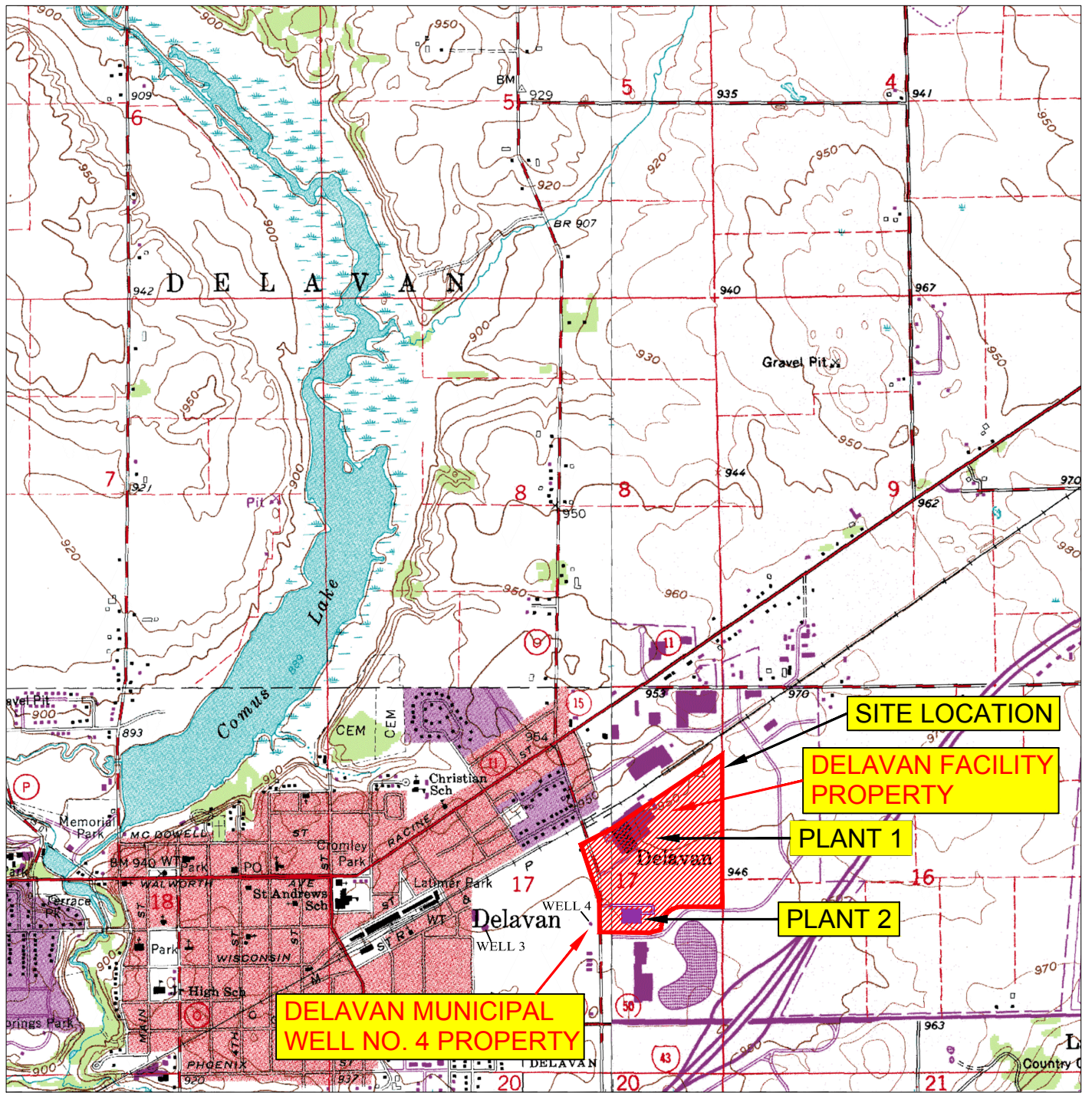
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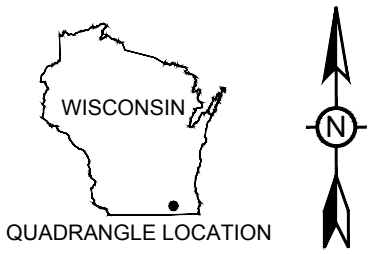
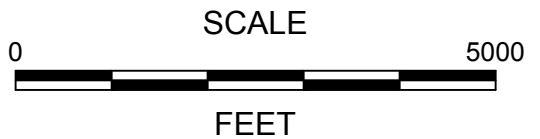
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Wisconsin Department of Natural Resources, August 17, 2015, *Third Five-Year Review Report for Delavan Municipal Well No. 4 Superfund Site, Delavan, Wisconsin*.



National Geodetic Vertical Datum of 1929
 Contour Interval 10 Feet

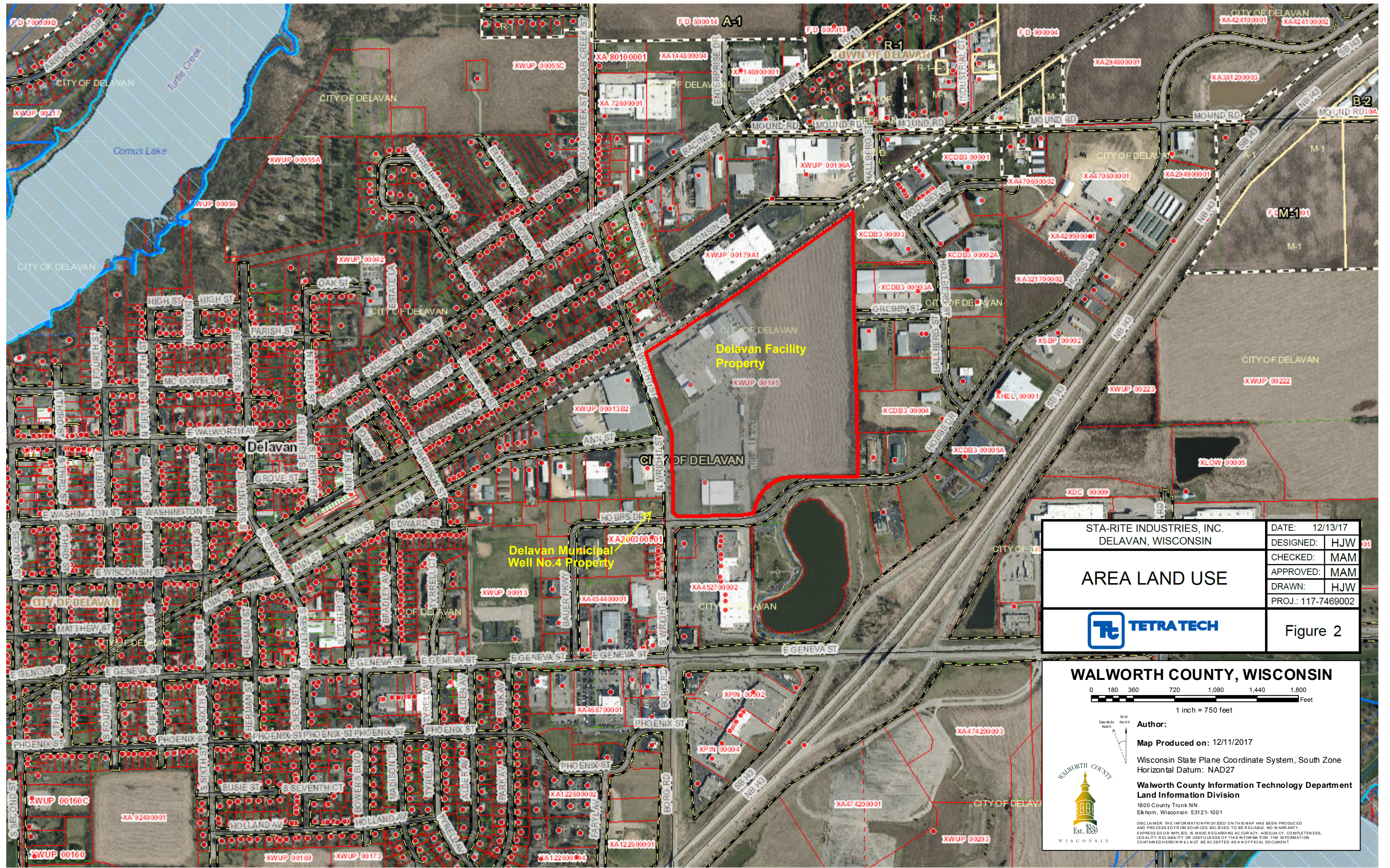


STA-RITE INDUSTRIES, INC. DELAVAN, WISCONSIN	DATE: 12/13/17
	DESIGNED: HJW
SITE LOCATION MAP	CHECKED: MAM
	APPROVED: MAM
	DRAWN: HJW
PROJ.: 117-7469002	



Figure 1

Base map from U.S.G.S. 7.5' DELAVAN AND ELKHORN, WISCONSIN topographic quadrangle map.



STA-RITE INDUSTRIES, INC. DELAVAN, WISCONSIN	DATE: 12/13/17
AREA LAND USE	DESIGNED: HJW
	CHECKED: MAM
	APPROVED: MAM
	DRAWN: HJW
	PROJ.: 117-7469002
 TETRA TECH	
Figure 2	

WALWORTH COUNTY, WISCONSIN

0 180 360 720 1,080 1,440 1,800
Feet

1 inch = 750 feet

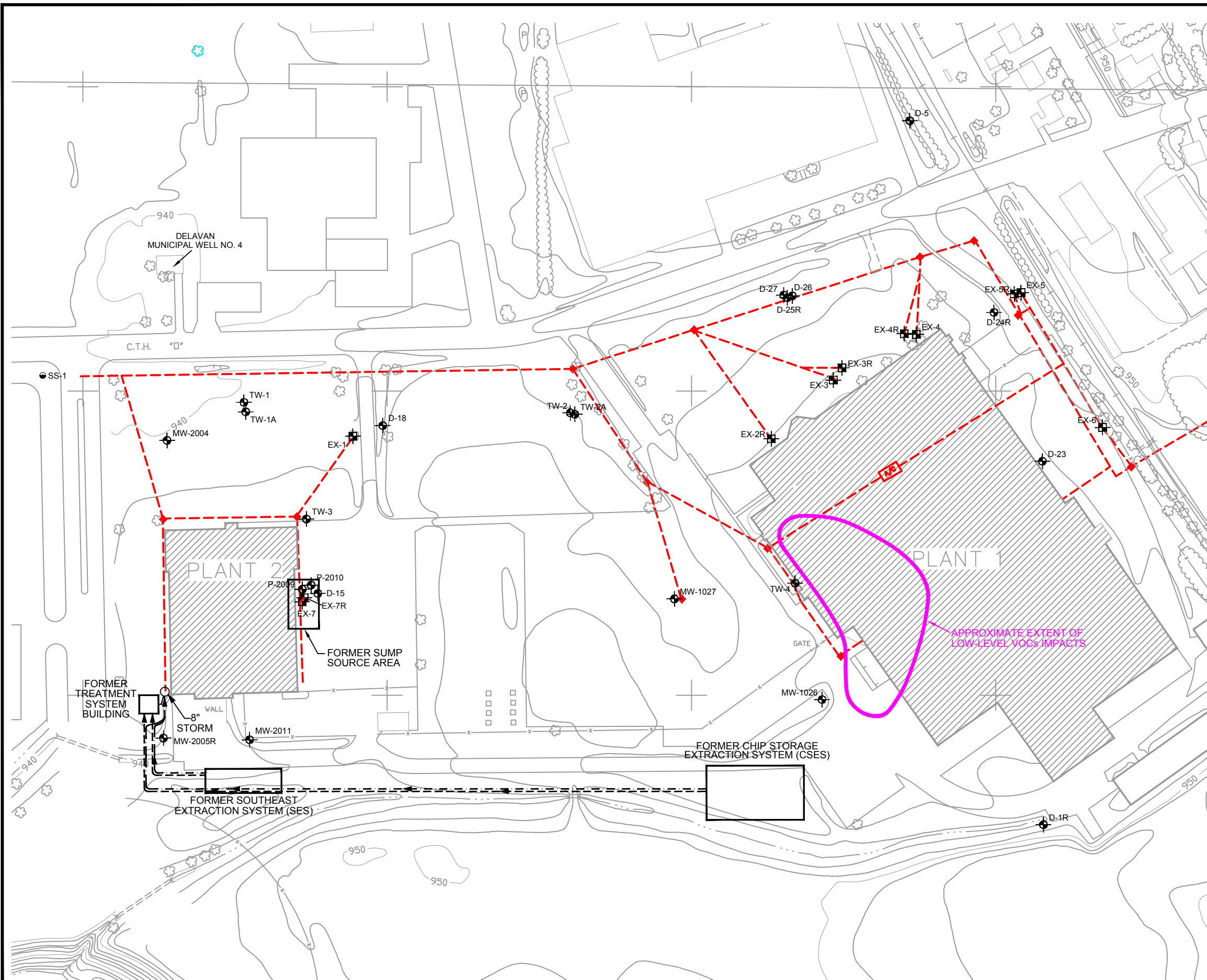
Author:

Map Produced on: 12/11/2017






Wisconsin State Plane Coordinate System, South Zone
Horizontal Datum: NAD27

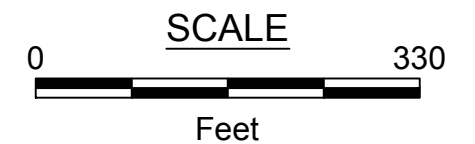
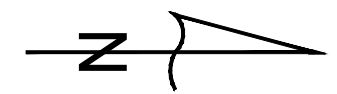
**Walworth County Information Technology Department
Land Information Division**
1800 County Trunk NN
Elkhorn, Wisconsin 53121-1001


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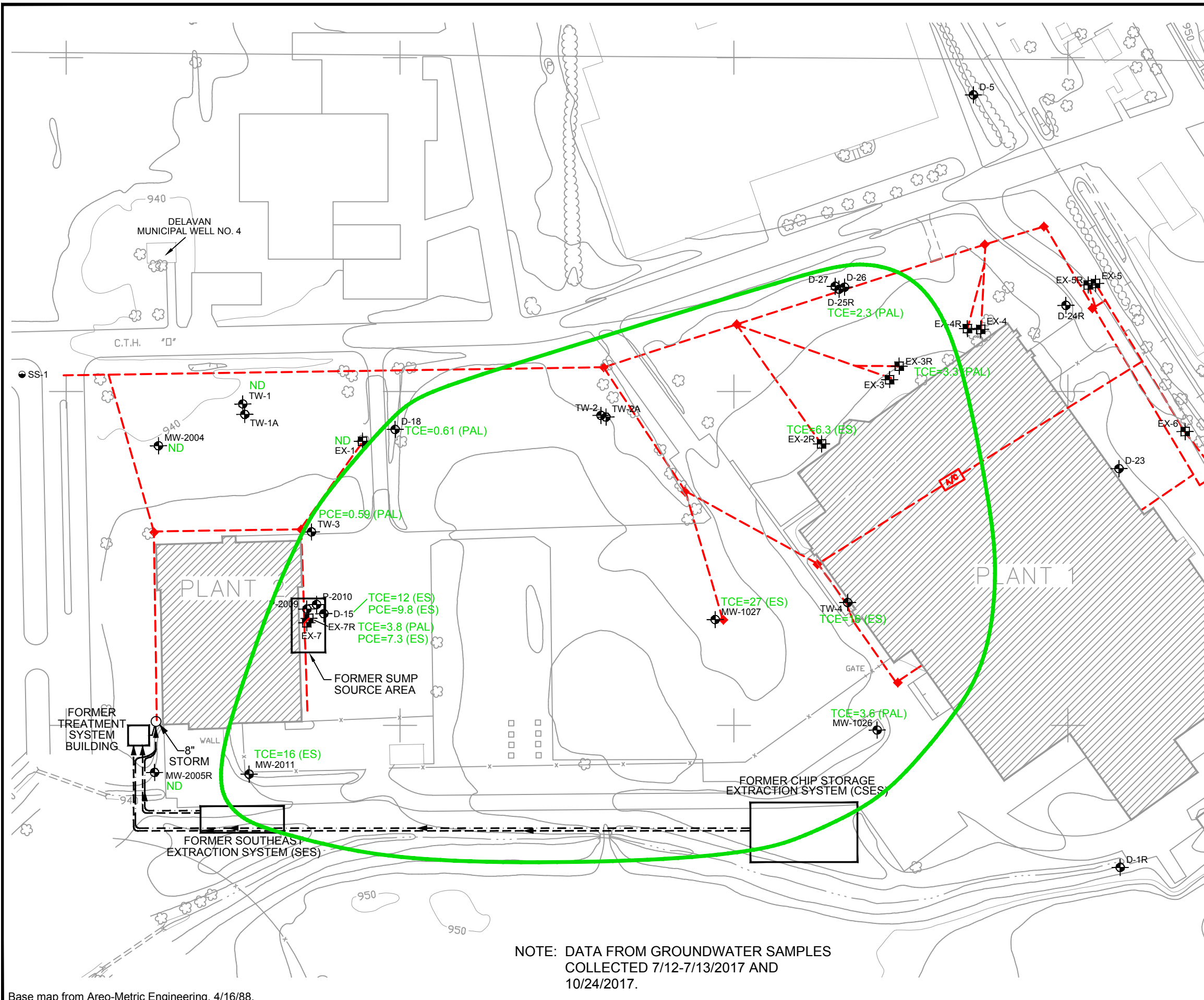
EXPLANATION

-  MW-2004 MONITOR WELL LOCATION AND DESIGNATION
-  E-3 EXTRACTION WELL LOCATION AND DESIGNATION
-  SS-1 STORM SEWER SAMPLE LOCATION AND DESIGNATION
-  P-2009 PIEZOMETER LOCATION AND DESIGNATION
-  EXTRACTION WELL/ STORM SEWER PIPING



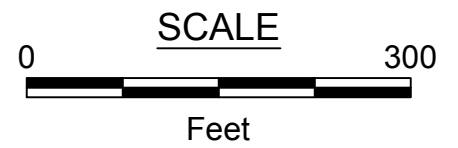
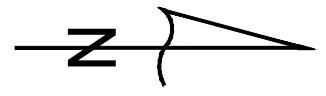
STA-RITE INDUSTRIES, INC. DELAVAN, WISCONSIN	DATE: 12/16/17
	DESIGNED: HJW
DELAVAN FACILITY LAYOUT AND WELL LOCATIONS	CHECKED: MAM
	APPROVED: MAM
	DRAWN: HJW
	PROJ.: 117-7469002
	Figure 3

Base map from Areo-Metric Engineering, 4/16/88.



EXPLANATION

- MW-2004 MONITOR WELL LOCATION AND DESIGNATION
- E-3 EXTRACTION WELL LOCATION AND DESIGNATION
- SS-1 STORM SEWER SAMPLE LOCATION AND DESIGNATION
- P-2009 PIEZOMETER LOCATION AND DESIGNATION
- EXTRACTION WELL/ STORM SEWER PIPING
- EXTENT OF IMPACTS EXCEEDING CHAPTER NR140 PREVENTIVE ACTION LIMITS (PALs)
- 3.6 COMPOUND CONCENTRATION (ug/L)
- ND NO VOCs DETECTED IN SAMPLE
- ES: COMPOUND CONCENTRATION EXCEEDS ITS CHAPTER NR140 ENFORCEMENT STANDARD (5.0)
- PAL: COMPOUND CONCENTRATION EXCEEDS ITS CHAPTER NR140 PREVENTIVE ACTION LIMIT (0.5)
- TCE: TRICHLOROETHENE
- PCE: TETRACHLOROETHENE



NOTE: DATA FROM GROUNDWATER SAMPLES COLLECTED 7/12-7/13/2017 AND 10/24/2017.

STA-RITE INDUSTRIES, INC. DELAVAN, WISCONSIN	DATE: 12/17/17
	DESIGNED: HJW
GROUNDWATER PLUME EXTENT	CHECKED: MAM
	APPROVED: MAM
	DRAWN: HJW
	PROJ.: 117-7469002
Figure 4	

Table 1. Summary of 2017 Groundwater Sampling Event VOCs Analytical Results for Pentair Flow Technologies Delavan Facility Monitoring Points

SAMPLE ID	DATE	PCE	1,1,1-TCA	TCE	1,1,2-TCA	Vinyl Chloride	1,1-DCA	1,1-DCE	Total VOCs
Units		ug/L	ug/L	ug/L	ug/L	ug/L	ug/L	ug/L	ug/L
NR 140 ES		5.0	200	5	5	0.2	850.0	7.0	
NR 140 PAL		0.5	40	0.5	0.5	0.02	85.00	0.70	
MW-1026	07/13/17	<0.37	14	3.6	<0.35	<0.20	NA	NA	17.6
MW-1027	07/13/17	<0.37	7.1	27	<0.35	<0.20	NA	NA	34.1
TW-4	07/13/17	<0.37	27	19	<0.35	<0.20	1.1	1.0	48.1
	10/24/17	<0.37	22	16	<0.35	<0.20	<0.41	0.91	38.91
D-25R	07/12/17	<0.37	2.9	2.3	<0.35	<0.20	NA	NA	5.2
EX-2R	10/24/17	<0.37	3.7	6.3	<0.35	<0.20	NA	NA	10
EX-3R	10/24/17	<0.37	2.3	3.3	<0.35	<0.20	NA	NA	5.6
SS-1	07/19/17	<0.37	<0.38	<0.16	<0.35	<0.20	NA	NA	0
D-18	07/12/17	<0.37	<0.38	0.61	<0.35	<0.20	NA	NA	0.61
MW-2004	07/12/17	<0.37	<0.38	<0.16	<0.35	<0.20	NA	NA	0
MW-2005R	07/12/17	<0.37	<0.38	<0.16	<0.35	<0.20	NA	NA	0
MW-2011	07/12/17	<0.37	2.1	16	<0.35	<0.20	NA	NA	18.1
D-15	07/12/17	9.8	<0.38	12	<0.35	<0.20	NA	NA	21.8
TW-1	07/12/17	<0.37	<0.38	<0.16	<0.35	<0.20	NA	NA	0
TW-3	07/12/17	0.59	<0.38	<0.16	<0.35	<0.20	NA	NA	0.59
EX-1	07/13/17	<0.37	<0.38	<0.16	<0.35	<0.20	NA	NA	0
EX-7R	10/24/17	7.3	<0.38	3.8	<0.35	<0.20	NA	NA	11.1

Notes:

VOCs = Volatile Organic Compounds

ug/L = micrograms parts per liter, which is equivalent to parts per billion (ppb).

ES = Enforcement Standard, PAL = Preventative Action Limit

Orange Highlight = above ES, Yellow Highlight = above PAL

PCE = Tetrachloroethene

TCA = Trichloroethane

TCE = Trichloroethene

DCA = Dichloroethane

DCE = Dichloroethene

NA = Not Analyzed

Table 2. Summary of Former Sump Source Area Soil Sample Analytical Results
Pentair Flow Technologies, Delavan Wisconsin Facility

Sample ID	Depth (ft)	Sample date	Units		ug/kg	ug/kg	ug/kg	ug/kg	ug/kg	ug/kg	ug/kg	ug/kg	ug/kg	ug/kg
			Trichloroethene	Tetrachloroethene	cis-1,2-dichloroethene	1,1,1-Trichloroethane	Ethylbenzene	Toluene	sec-Butylbenzene	Isopropylbenzene	Naphthalene	1,2,4-Trimethylbenzene	1,3,5-Trimethylbenzene	TOTAL VOCs
(Soil samples collected adjacent to former location of sump.)														
SB-SumpE-16	16	12/22/03	<27	195	227	<27	<27	<27	<27	<27	<27	<27	<27	422
SB-SumpE-16	16	10/08/04	131	69	<31	229	<31	31	<31	<31	<31	<31	<31	460
SB-SumpE-20	20	12/22/03	39	436	100	<27	<27	<27	<27	<27	<27	<27	<27	575
SB-SumpE-20	20	10/08/04	758	163	<27	<27	<27	<27	<27	<27	<27	<27	<27	921
SumpE-24	24	09/16/03	110	305	90	<27	<27	<27	<27	<27	<27	30	<27	535
SumpE-24	24	10/08/04	107	666	88	<27	<27	<27	92	<27	<27	<27	<27	953
SumpE-26	26	09/16/03	66	377	32	<27	<27	<27	<27	<27	<27	<27	<27	475
SumpE-26	26	10/04/04	172	2050	108	129	85	<30	205	58	<30	<30	74	2881
SumpE-28	28	09/16/03	118	785	108	<27	<27	<27	<27	<27	<27	<27	<27	1011
SumpE-28	28	10/08/04	3740	1930	1030	<27	321	<27	44	43	28	171	100	7407

Notes: SVE discontinued December 2003
Only detected volatile organic compounds (VOCs) are listed.

Table 3. Delavan Muncpal Well No. 4 Superfund Site Institutional Controls Relationship Matrix

Property Name and Tax Parcel ID	Area of Interest	Contaminants Remaining	Contaminated Media	Engineering Controls	Cleanup Objective	Use Restriction/IC Objective	Conditions for Termination	IC Instruments Implemented
Pentair Flow Technologies Delavan Facility XWUP 00195	Former Sump Source Area (see Figure 3)	TCE	Subsurface Soil (below 16 feet)	Clean soil and fill above impacted soil.	Utilize existing zoning designation of General Manufacturing.	Limit land use to commercial and industrial. Prevent residential exposure risk.	Once residual TCE concentrations at 28 feet bgs decline to less than the EPA default residential RSL of 943 ug/kg.	COs listed on BRRTS on the Web database per s. 292.12, Wisconsin Statutes. Local zoning designation of General Manufacturing.
	West half of Delavan facility property. (see Figure 4)	TCE PCE 1,1-DCE	Groundwater	Groundwater Extraction System	Prohibit drinking of impacted groundwater.	Require prior approval by WDNR to construct or reconstruct a water supply well on the property to prevent human consumption of groundwater.	Once Chapter NR 140 PALs are achieved.	COs listed on BRRTS on the Web database per s. 292.12, Wisconsin Statutes. NR 812.09(4)(w), Wisconsin Administrative Code requiring prior WDNR approval for construction or reconstruction of a water supply well.

Notes:

BRRTS: Bureau for Remediation and Redevelopment Tracking System

COs: Continuing Obligations

EPA: U.S. Environmental Protection Agency

IC: Institutional Control

RSL: Regional Screening Level

PCE: Tetrachloroethene

TCE: Trichloroethene

1,1-DCE: 1,1-dichloroethene

WDNR: Wisconsin Department of Natural Resources

1. See Table 1 for other VOCs detected in the groundwater plume that are below Chapter NR 140 PALs

2. See Table 2 for other VOCs detected in former sump source area soils at levels that are below direct contact, ingestion or inhalation RSLs.

Table 4. Delavan Facility Groundwater Monitoring Program Well List
Pentair Flow Technologies, LLC, Delavan, Wisconsin

Monitoring Point	Sampling Frequency	Parameters
Plant 1 Monitoring Points		
D-25R	Annual	PCE, TCA, TCE, VC
MW-1026	Annual	PCE, TCA, TCE, VC
MW-1027	Annual	PCE, TCA, TCE, VC
TW-4	Quarterly	VOCs
EX-2R	Annual	PCE, TCA, TCE, VC
EX-3R	Annual	PCE, TCA, TCE, VC
Plant 2 Monitoring Points		
D-15	Annual	PCE, TCA, TCE, VC
D-18	Annual	PCE, TCA, TCE, VC
MW-2004	Annual	PCE, TCA, TCE, VC
MW-2005R	Annual	PCE, TCA, TCE, VC
MW-2011	Annual	PCE, TCA, TCE, VC
TW-1	Annual	PCE, TCA, TCE, VC
TW-3	Annual	PCE, TCA, TCE, VC
EX-1	Annual	PCE, TCA, TCE, VC
EX-7R	Annual	PCE, TCA, TCE, VC
Site Monitoring Point		
Storm Sewer Grate (SS-1)	Annual	PCE, TCA, TCE, VC

PCE = Tetrachloroethene

TCA = 1,1,1-Trichloroethane and 1,1,2-Trichloroethane

TCE = Trichloroethene

VC = Vinyl Chloride

VOCs = Volatile Organic Compounds

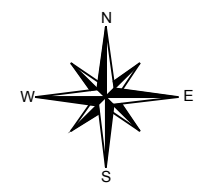
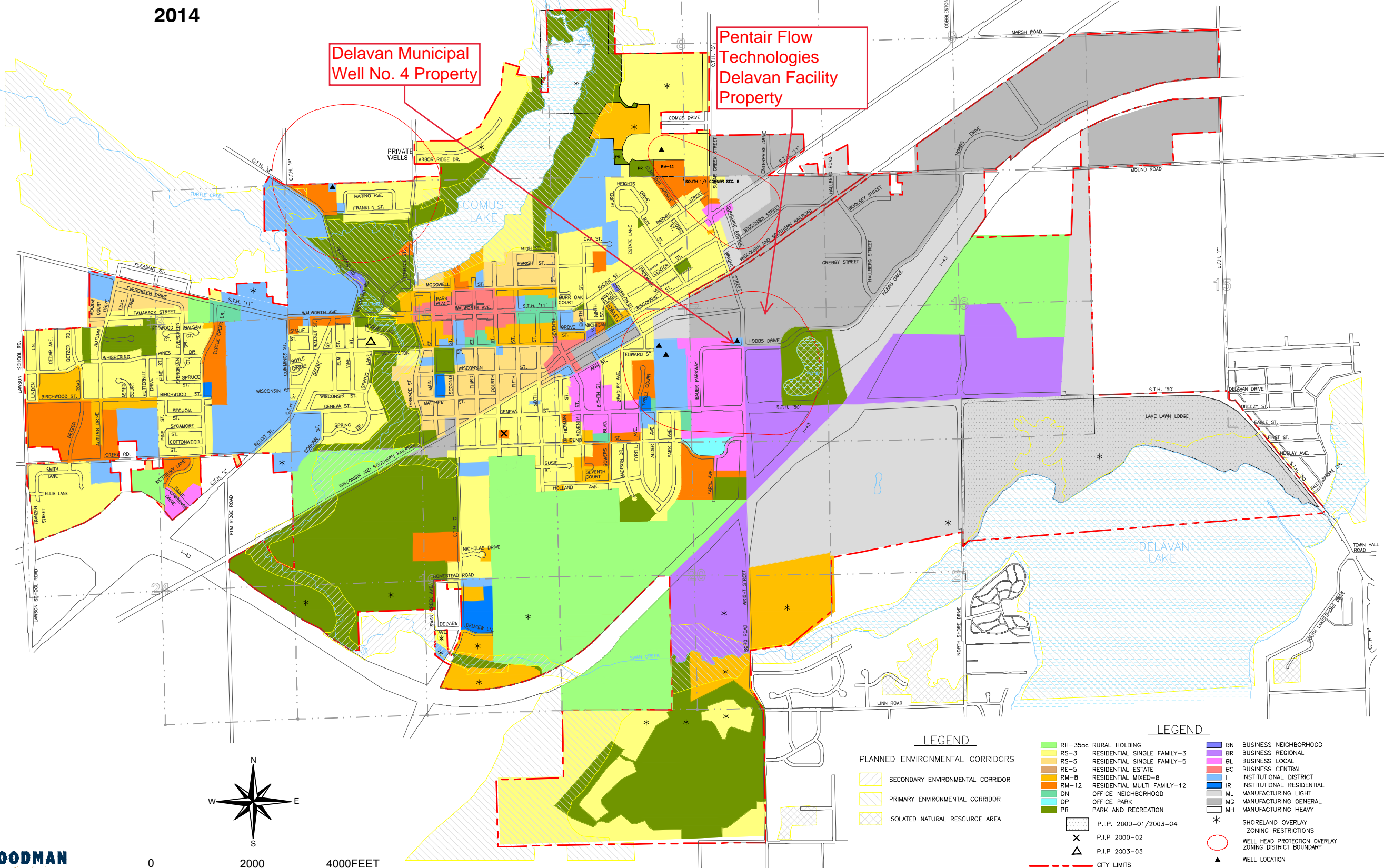
APPENDIX A
CITY OF DELAVAN ZONING MAP

OFFICIAL ZONING MAP

CITY OF DELAVAN

WALWORTH COUNTY, WISCONSIN

2014



LEGEND

PLANNED ENVIRONMENTAL CORRIDORS

- SECONDARY ENVIRONMENTAL CORRIDOR
- PRIMARY ENVIRONMENTAL CORRIDOR
- ISOLATED NATURAL RESOURCE AREA

LEGEND

	RH-35oc	RURAL HOLDING		BN	BUSINESS NEIGHBORHOOD
	RS-3	RESIDENTIAL SINGLE FAMILY-3		BR	BUSINESS REGIONAL
	RS-5	RESIDENTIAL SINGLE FAMILY-5		BL	BUSINESS LOCAL
	RE-5	RESIDENTIAL ESTATE		BC	BUSINESS CENTRAL
	RM-8	RESIDENTIAL MIXED-8		I	INSTITUTIONAL DISTRICT
	RM-12	RESIDENTIAL MULTI FAMILY-12		IR	INSTITUTIONAL RESIDENTIAL
	ON	OFFICE NEIGHBORHOOD		ML	MANUFACTURING LIGHT
	OP	OFFICE PARK		MG	MANUFACTURING GENERAL
	PR	PARK AND RECREATION		MH	MANUFACTURING HEAVY

P.I.P. 2000-01/2003-04
 P.I.P. 2000-02
 P.I.P. 2003-03
 CITY LIMITS

LEGEND

	BN	BUSINESS NEIGHBORHOOD
	BR	BUSINESS REGIONAL
	BL	BUSINESS LOCAL
	BC	BUSINESS CENTRAL
	I	INSTITUTIONAL DISTRICT
	IR	INSTITUTIONAL RESIDENTIAL
	ML	MANUFACTURING LIGHT
	MG	MANUFACTURING GENERAL
	MH	MANUFACTURING HEAVY
	*	SHORELAND OVERLAY ZONING RESTRICTIONS
	○	WELL HEAD PROTECTION OVERLAY ZONING DISTRICT BOUNDARY
	▲	WELL LOCATION

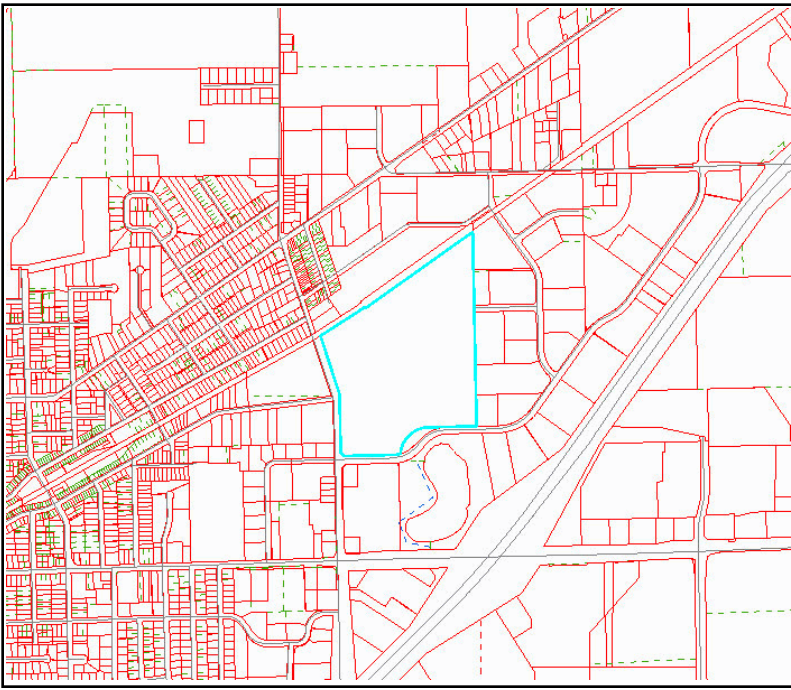
I:\Burlington\DELV\GENERAL\MAPPING\UTILITY MAPS - Current\Zoning\Delavan Zoning Map.dwg -- Zoning 11x17
 PLOTTED: 11-15-13 @ 10:48am
 VERSION: 15.2s (LMS Tech)



Updated November 2013 by DKS

APPENDIX B

**PENTAIR FLOW TECHNOLOGIES DELAVAN FACILITY
PROPERTY DETAILS AND PROPERTY TAX RECORDS**



Walworth County, WI Land Information Division

Property Details

Municipality: CITY OF DELAVAN
 Parcel Number: XWUP 00195
 School District: 1380-DELAVAN-DARIEN SCHOOL DI
 Zoning District:

Owner Information

Owner Name: PENTAIR FLOW TECHNOLOGIES LLC
 Owner Name 2:
 Mailing Address: 5500 WAYZATA BLVD STE 800
 GOLDEN VALLEY MN, 55416

2017 Valuation Information

Land: \$935,400.00
 Improvements: \$4,368,500.00
 Total: \$5,303,900.00
 Acres: 77.0000
 Fair Market Value: \$5,675,500.00
 Assessment Ratio: 0.9345132120
 Mill Rate: 0.0234571940

Tax Information

First Dollar Credit: \$58.86	School Credit: \$9,978.20
Special Assessment: \$0.00	Lottery Credit: \$0.00
Delinquent Utility Charge: \$0.00	Special Charges: \$0.00
Managed Forest Land Taxes: \$0.00	Private Forest Crop Taxes: \$0.00
Total Billed: \$124,355.74	Woodland Tax Law Taxes: \$0.00
Net Tax: \$124,355.74	

Tax Jurisdictions

LK COMUS PRO & REH \$0.00
 WAL CTY METRO SEWER \$0.00
 STATE OF WISCONSIN \$0.00
 WALWORTH COUNTY \$23995.47
 CITY OF DELAVAN \$56678.29
 GATEWAY TECHNICAL \$4606.48

Elected Officials / Voting Districts

Supervisory District: Daniel G. Kilkenny (D8)
 State Representative: Tyler August(R) (32nd District)
 State Senator: Stephen Nass(R) (11th District)
 US Representative: Paul Ryan(R) (1st District)
 US Senator: Ron Johnson (R) & Tammy Baldwin (D)

Special Assessments / Charges

Soil Classification

<u>Soil Type</u>	<u>Soil Name</u>	<u>Acres</u>
PsA	PLANO SILT LOAM, 0 TO 2 PERCENT SLOPES	38.4104
PsB	PLANO SILT LOAM, 2 TO 6 PERCENT SLOPES	27.5339

Property Address

175 S WRIGHT ST DELAVAN
 293 N WRIGHT ST DELAVAN

Legal Description

PT NE1/4 & SE1/4 SEC 17 T2N R16E DESC AS COM NE COR SEC 17 T2N R16E, S0 D54' E 700.51' TO SELY LN RR R/W & POB, S0D54' E 3562'58' S86D02' W 92.22', S0D51' E 285.41' TO C/L HWY 50 S88D31' W ALG C/L 1576.48' TO C/L WRIGHT ST, N1D00'W ALG SD C/L 1960.44' N18D18'W 717.48' TO SLY LN RR LAND N59D15'E 25.59' ALG CURVE OF RR LAND TO A PT LOC N58D1'E 558.32' FROM LAST MENTIONED PG N54D53'E 110', S 35D07'E 17', N54D53'E 1558.68' TO POB. EXC LAND FOR HWY AS IN VOL 102 RECORDS PG 251 & EXC C.S.M.NO. 972 W.C.R. CITY OF DELAVAN EXC. LAND SOLD TO CITY OF DELAVAN FOR ROADWAY PURPOSES IN VOL 498 ON PAGE 709 & IN VOL 531 PG 605. ASSESSED BY DEPT OF REVENUE

Disclaimer

The information provided in this property information page is not official information. All official tax information is recorded in the Walworth County Treasurer's Office. To verify tax payment/payoff status, contact the Walworth County Treasurer's Office at 262-741-4251.

Walworth County

Owner (s):
PENTAIR FLOW TECHNOLOGIES LLC

Location:

School District:
1380 - Delavan-Darien School District

Mailing Address:
PENTAIR FLOW TECHNOLOGIES LLC
5500 WAYZATA BLVD STE 800
GOLDEN VALLEY, MN 55416
Request Mailing Address Change

Tax Parcel ID Number: Tax District: Status:
XWUP 00195 216-City of Delavan Active

Alternate Tax Parcel Number: Acres:
77.0000

Description - Comments (Please see Documents tab below for related documents. For a complete legal description, see recorded document.):

PT NE1/4 & SE1/4 SEC 17 T2N R16E DESC AS COM NE COR SEC 17 T2N R16E, S0 D54' E 700.51' TO SELY LN RR R/W & POB, S0D54' E 3562'58' S86D02' W 92.22', S0D51' E 285.41' TO C/L HWY 50 S88D31' W ALG C/L 1576.48' TO C/L WRIGHT ST, N1D00'W ALG SD C/L 1960.44' N18D18'W 717.48' TO SLY LN RR LAND N59D15'E 25.59' ALG CURVE OF RR LAND TO A PT LOC N58D1'E 558.32' FROM LAST MENTIONED PG N54D53'E 110', S 35D07'E 17', N54D53'E 1558.68' TO POB. EXC LAND FOR HWY AS IN VOL 102 RECORDS PG 251 & EXC C.S.M.NO. 972 W.C.R. CITY OF DELAVAN EXC. LAND SOLD TO CITY OF DELAVAN FOR ROADWAY PURPOSES IN VOL 498 ON PAGE 709 & IN VOL 531 PG 605. ASSESSED BY DEPT OF REVENUE

Site Address (es): *(Site address may not be verified and could be incorrect. DO NOT use the site address in lieu of legal description.)*
293 N WRIGHT ST DELAVAN, WI 53115
175 S WRIGHT ST DELAVAN, WI 53115

0 Lottery credits claimed

Tax History

* Click on a Tax Year for detailed payment information.

Tax Year*	Total Due	Paid to Date	Current Due	Interest	Penalty	Total Payoff
2017	\$124,355.74	\$0.00	\$124,355.74	\$0.00	\$0.00	\$124,355.74
2016	\$128,522.35	\$64,261.18	\$64,261.17	\$7,068.73	\$3,534.36	\$74,864.26
2015	\$126,949.32	\$126,949.32	\$0.00	\$0.00	\$0.00	\$0.00
2014	\$124,067.35	\$124,067.35	\$0.00	\$0.00	\$0.00	\$0.00
2013	\$125,023.78	\$125,023.78	\$0.00	\$0.00	\$0.00	\$0.00
2012	\$112,899.34	\$112,899.34	\$0.00	\$0.00	\$0.00	\$0.00
2011	\$100,202.58	\$100,202.58	\$0.00	\$0.00	\$0.00	\$0.00
2010	\$113,868.44	\$113,868.44	\$0.00	\$0.00	\$0.00	\$0.00
2009	\$118,441.44	\$118,441.44	\$0.00	\$0.00	\$0.00	\$0.00
2008	\$118,354.04	\$118,354.04	\$0.00	\$0.00	\$0.00	\$0.00
2007	\$122,208.80	\$122,208.80	\$0.00	\$0.00	\$0.00	\$0.00
2006	\$133,317.52	\$133,317.52	\$0.00	\$0.00	\$0.00	\$0.00
2005	\$136,826.44	\$136,826.44	\$0.00	\$0.00	\$0.00	\$0.00
2004	\$101,565.38	\$101,565.38	\$0.00	\$0.00	\$0.00	\$0.00
Total						\$199,220.00

If taxes are 3 years or more delinquent, please contact the Treasurer's office for additional fees due. (262) 741-4251.

NOTE: Current year tax bills may not be processed by the county.

Interest and penalty on delinquent taxes are calculated to **December 31, 2017.**

APPENDIX C
DELAVAN MUNICIPAL WELL NO. 4 SUPERFUND SITE
RECORD OF DECISION

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

DATE: SEP 14 2000

SUBJECT: Request for Concurrence on the Record of Decision for the
City of Delavan Municipal Well No. 4 Superfund Site
Delavan, Wisconsin

FROM: 
Mike Smith, Chief
Multimedia Branch 1

TO: William E. Muro, Director
Waste Management Division

This memorandum recommends that you sign the attached concurrence letter for the Record of Decision for the City of Delavan Municipal Well No. 4 Superfund Site, which is located in Delavan, Wisconsin.

The Wisconsin Department of Natural Resources prepared the ROD in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 94-499, to the extent practicable, the National Contingency Plan, 40 C.F.R. part 300 and Agency policy. We have reviewed the attached documents and have concluded that the ROD is both legally and technically sufficient. As such, we believe that implementation of this remedial measure is a proper exercise of your delegated authority.

Please feel free to contact me should you have any questions.

Attachment

DECLARATION FOR THE RECORD OF DECISION

SITE NAME AND LOCATION

City of Delavan Municipal Well No. 4
Delavan, Wisconsin

STATEMENT OF BASIS AND PURPOSE

This decision document represents the selected remedial action for the City of Delavan Municipal Well No. 4 Superfund Site developed in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) and, to the extent practicable, the National Oil and Hazardous Substances Pollution Contingency Plan.

This decision is based upon the contents of the administrative record for the City of Delavan Municipal Well No. 4 Superfund site.

The United States Environmental Protection Agency (USEPA), Region 5, supports the selected remedy for the City of Delavan Municipal Well No. 4 Superfund site. USEPA and the Wisconsin Department of Natural Resources (WDNR) have determined that their response at this site is complete, except for the continued operation and maintenance of existing soil vapor and groundwater extraction and treatment systems and groundwater monitoring. Therefore, the site now qualifies for inclusion on the Construction Completion List.

ASSESSMENT OF THE SITE

Actual or threatened releases of hazardous substances from this site are addressed by the response actions that have been put in place and are being operated, and do not present an imminent and substantial endangerment to the public health, welfare, or the environment.

DESCRIPTION OF THE SELECTED REMEDY

No further remedial action is necessary for the site other than continued operation and maintenance of existing soil vapor and groundwater extraction and treatment systems and groundwater monitoring.

Because this remedy will result in hazardous substances remaining on-site above levels that will allow for unlimited use and unrestricted exposure, U.S. EPA must conduct a statutory five-year review. The five-year review will be completed no less often than every 5 years after signature of this ROD.

STATUTORY DETERMINATIONS

It has been determined that no further remedial action is necessary for the purpose of mitigating environmental threats at this site. It is the opinion of the Wisconsin Department of Natural Resources, in consultation with USEPA Region V, that the interim remedial actions that are being taken at the site are protective of human health and the environment, attain Federal and State requirements that are applicable or relevant and appropriate for this remedial action and are cost-effective and that no further remedial action is necessary.

9/25/2000
Date

George E. Meyer
George Meyer, Secretary
Wisconsin Department of Natural Resources

9/28/2000
Date

William E. Muno
William E. Muno/Director
Superfund Division

DECISION SUMMARY

SITE NAME, LOCATION, AND DESCRIPTION

The Delavan Municipal Well No. 4 Superfund Site is located within the corporate limits of the City of Delavan, Wisconsin, and is defined as the contaminated groundwater used by the City of Delavan Municipal Well No. 4. A portion of the groundwater that was contaminated is generally located on property occupied by Sta-Rite Industries Inc. The area encompasses approximately 70 acres and is located in the SE1/4 of Section 17 in Delavan Township (T2N, R16E), and is bordered on the south by a commercial strip shopping center, on the west by Wright Street and on the north by the Wisconsin Calumet Railroad. The west side of Wright Street, adjacent to the site, is occupied by industrial and commercial properties, and Municipal Well No. 4. Sta-Rite has operated manufacturing facilities located at 293 Wright Street since 1958. Two major plants on the site produce high quality water pumps and related products. Plant No. 1 is located approximately 1000 feet northeast of Municipal Well No. 4 and Plant No. 2 is located approximately 400 feet east of Municipal Well No. 4. The City installed Municipal Well No. 4 in 1968.

The National Superfund electronic database identification number for this site is WID980820062. The Wisconsin Department of Natural Resources (WDNR) is the lead agency for this site and the United States Environmental Protection Agency (USEPA) is the support agency for the site.

Sta-Rite Industries Inc., the only responsible party for this site, financed an Interim Action and is expected to finance the continuing operation and maintenance of that action at the site. The area adjacent to the site is zoned for mixed residential and commercial land use. The majority of the contaminated area is on the Sta-Rite Industries Inc.'s property, and is zoned for light industrial use.

SITE HISTORY AND ENFORCEMENT ACTIVITIES

Background

In March 1982, during a random public well sampling program by the WDNR, trichloroethylene (TCE) was detected in the City of Delavan Municipal Well No.4. The TCE exceeded the suggested levels for water quality standards as set by the Wisconsin Department of Health and Social Services. Subsequent samplings also identified 1,1,1-trichloroethane (TCA) and tetrachloroethylene (PCE) in City of Delavan Municipal Well No. 4. The WDNR subsequently recommended that City of Delavan Municipal Well No. 4 be removed from the municipal water supply system. The City of Delavan complied in July 1982.

During 1982, the WDNR initiated efforts to identify users of the compounds detected at the City of Delavan Municipal Well No. 4. Questionnaires were sent to facilities in the vicinity of the well regarding historical solvent use and disposal practices. Sta-Rite was identified as a potential source of the compounds occurring in the well based on previous solvent use as well as the proximity of Sta-Rite facilities to City of Delavan Municipal Well No. 4.

The USEPA subsequently performed a hazard assessment and as a result, the City of Delavan Municipal Well No. 4 was nominated to the National Priority List (NPL) on September 8, 1983, and listed in 1984. Subsequent to the nomination of the City of Delavan Municipal Well No. 4 to the NPL in 1983, both the City of Delavan and Sta-Rite performed hydrogeological investigations of the source(s) of impacts to City of Delavan Municipal Well No. 4. The studies

identified an area near Sta-Rite Plant #2 which contained concentrations of TCE in the soil and ground water apparently due to a former solvent disposal sump. TCE and TCA were also found in the soil and ground water around Plant #1. Since 1983, additional investigations were conducted at the site by Sta-Rite to further define the extent of the impacts and to identify and implement appropriate remedial technologies.

Sta-Rite and WDNR executed a contract (number SF-90-02) on September 21, 1990 to conduct a Remedial Investigation/Feasibility Study (RI/FS) and Remedial Design/Remedial Action (RD/RA) on the Delavan City Municipal Well No. 4 NPL site. The purpose of the RI/FS was to determine the nature and extent of contamination, assess the potential for risks to human health and the environment, determine the need for further investigation, and, if necessary, provide data for design and implementation of selected remedies to remediate the impacts.

Results of Remedial Investigation

Investigative activities performed as part of an RI/FS for this facility were conducted between August 1991 and July 1992. These activities included soils, soil gas, groundwater, surface-water, and sediment investigations as well as an ecological assessment of the facility and the surface-water corridor downstream of the stormwater discharge which contains runoff and extracted ground water from the Sta-Rite facility. The following reports were prepared for this site

1. Site Evaluation Report (1990) summarized existing data and conditions at the Sta-Rite facility.
2. Project Work Plans (1991) provided details of the scope of the proposed Remedial Investigation.
3. Monitoring Well Evaluation (1991) summarized existing monitoring data and conditions at the Sta-Rite facility.
4. Interim Draft Technical Memorandum #1, Source Characterization (1992), describes the source areas confirmed as part of Remedial Investigation activities, and identifies additional data needs to fully characterize suspected source areas.
5. Technical Memorandum #2, Migration Pathway Assessment (1992), describes the migration pathways for impacts detected on site, and the potential for off-site migration of these impacts in concentrations potentially harmful to human health and the environment.
6. Technical Memorandum #3, Baseline Risk Assessment Data Summary (1993), provides the results of investigations which were requested by WDNR to perform a Baseline Risk Assessment for the site
7. Technical Memorandum #4, Contaminant Extent Characterization (1993), presents the results of Remedial Investigation (RI) activities which were performed at and near the Sta Rite Industries, Inc., manufacturing facility.
8. Remedial Investigation (1993)
9. Focused Feasibility Study for Interim Remedial Action (1993)

Various solvents were used in manufacturing processes at the Sta-Rite facilities. TCE was used

throughout both plants in various manufacturing and cleaning processes up until 1977. Other solvents used at the facilities included TCA and PCE. The compounds detected in the greatest concentrations and which are the most prevalent at the site are TCE, TCA, and PCE. These three compounds have been preliminarily identified as the compounds of greatest potential concern based on their potential toxicity and concentrations observed at the site. The other organic compounds which are less prevalent at the site and which have occurred at relatively low concentrations in groundwater samples probably represent miscellaneous, small volume releases of organic solvents, and/or degradation products.

A series of floor, drains and sumps in Plant #1 were used from 1958 to 1976 to collect spills and other discharges and to separate sludge and solids from the spills prior to their discharge to the storm sewer system. Because the sumps were constructed of concrete block, leakage to the surrounding soils was possible. From 1982 through 1984, most of the sumps and floor drains were permanently sealed. These areas comprise the previously known release areas.

Spent solvents and other waste liquids were also thought to have been released to open pits and the ground surface south of Plant #1, below or just south of an area currently covered by a plant expansion constructed in 1974. The area beneath the existing addition was investigated and no areas of residual impacts were noted. However, one location immediately south of the existing plant expansion appears to have residual impacts. Spent solvents were reportedly released onto cast iron chips in the area southeast of Plant #1. However, the exact release locations were uncertain. The area of these releases have been evaluated using soil gas, soil, and ground water sampling.

Previous investigative work at the site documented that from 1968 to 1977 solvents were discharged to a sump adjacent to the north wall of Plant #2. The former unlined sump functioned as a release area for waste to soils via a floor drain in an adjacent solvent storage area inside Plant #2.

Pervasive low levels of volatile organic compounds (VOC's) appear to exist below Plant #1, and several of the former disposal sumps have residual VOC impacts to soils. However, the areas investigated beneath the Plant #1 structures appear to be relatively minor sources of VOC's as the monitor wells installed upgradient of these known release areas and trends in VOC concentration gradients indicate that a source of greater impact probably exists southeast of Plant #1. One source area was detected southeast of Plant #1 at the former chip storage area. This area is immediately upgradient of the site monitor wells that have the highest concentrations of VOC's impacts and is, therefore, thought to be the major area of concern. The size of this area is approximately 100 feet by 200 feet.

In addition, a drainage swale off the edge of the pavement southeast of Plant #2 was a suspected source area based on interviews with Sta-Rite personnel, and review of historical aerial photographs. Liquid waste was known to have been released in this area. The general area encompassed by this source is approximately 180 feet by 50 feet, based on soil gas and soil analytical data.

Remedial investigation activities verified that the former chip storage and drainage swale areas had residual soil impacts that have impacted groundwater quality.

Interim Remedial Actions

Following the initial investigations, several corrective measures were implemented by Sta-Rite since 1983 to remove and/or contain VOC impacts on Sta-Rite property:

1. The sump area at Plant #2 was excavated and removed in 1983. Visibly impacted soils were excavated from the sump area. A portion of the soils were removed for disposal and the remainder were aerated and used as backfill.
2. A groundwater extraction system (GWES), consisting of five groundwater extraction wells at Plant #1 and two extraction wells at Plant #2, was installed in 1984 to remove impacted ground water. The groundwater extraction system is also used hydraulically to control off-site migration of impacted water. These systems are still in place and operating. All extracted water is discharged to the storm sewer after nozzle aeration treatment.
3. A spray irrigation flushing system was installed in 1984 to spray a portion of the groundwater extracted by Extraction Well EX-1 onto the ground surface at the Plant #2 sump area so that infiltrating water would enhance the removal of solvent from impacted soils. A gravel trench was installed in the vicinity of the former trench to assist in infiltration. The spray irrigation of groundwater ceased in the late 1980's and all extracted groundwater was then discharged to the storm sewer.
4. A soil vapor extraction system (SVES) was installed at the former sump location at Plant #2 in May, 1988 and has been in operation continuously since its installation. To enhance the VOC removal rate from this area, which had significant soil impacts remaining, heating wells were added and Heated Soil Vapor Extraction (HSVE) began operation in 1998.
5. Combination (or dual) soil vapor and groundwater extraction wells were installed in the former chip storage and drainage swale source areas in 1994. These are called the chip storage extraction system (CSES) and the southeast extraction system (SES), respectively.
6. Groundwater monitoring wells have been installed to monitor all source areas. Site groundwater monitoring continues on a quarterly basis.

COMMUNITY PARTICIPATION

The Proposed Plan for the City of Delavan Municipal Well No. 4 Site in Delavan, Wisconsin was made available to the public in August 2000. The Proposed Plan can be found in the information repository maintained at the WDNR Annex Office and the Aram Public Library in Delavan, Wisconsin. The notice of the availability of this document was published in the Delavan Enterprise on August 17, 2000. A public comment period was held from August 17 to September 18, 2000. In addition a public meeting was held on August 23, 2000, to present the Proposed Plan to a broader community audience than those that had already been involved at the site. At this meeting, representatives of the WDNR and Sta-Rite Industries Inc., made themselves available to answer questions about the site and the remedial action.

SCOPE AND ROLE OF RESPONSE ACTION

The proposed response action for this site is No Further Action. The interim remedial actions that were previously put in place and will be continued are the final actions for this site. The interim remedial actions will continue until the response action objectives, described below, are met.

Site monitoring, including groundwater monitoring, will continue as part of the actions. Such monitoring will also continue after active remedial actions are reduced or stopped, to determine if groundwater contaminant levels increase due to such reductions or stoppages. Should monitoring, at any time, show an increase in contaminant levels, additional remedial actions will

be required to meet the response action objectives.

SITE CHARACTERISTICS

The combined system of soil vapor extraction and groundwater extraction of the former Plant #2 sump has proven to be highly effective. Since operation of the soil vapor extraction system in May, 1988, VOC concentrations in extraction well EX-7 have decreased as follows:

Compound	June, 1988 Concentration	Dec., 1991 Concentration
PCE	330 ppb	44 ppb
TCE	2,400 ppb	241 ppb
TCA	7.9 ppb	5.1 ppb

Groundwater extraction at Plant #1 has also been effective at reduction of groundwater impacts over the eight years of its operation. Extraction well EX-2, historically the most impacted pumping well, has shown significant concentration decreases as follows:

Compound	Nov., 1984 Concentration	Dec., 1991 Concentration
TCE	1,000	268
TCA	2,900	1,260
DCE	280	92
DCA	<10	9.1

The above indicates the soil vapor extraction in source areas of solvent contamination in soil has resulted in about an order of magnitude decline in concentrations of major contaminants at the Plant #2 sump in 4 years. Relatively less contaminant reduction of about 2 to 3 times has occurred over twice the time interval at Plant #1 where solvent source areas were previously unidentified and remained untreated.

Significant reductions in VOC impacts at site monitoring wells have been observed since the remediation began, and VOC removal from the groundwater at the source areas continues to provide control and reduction of the contaminated plume.

The GWES removes impacted groundwater from two areas; the groundwater in the CSES is remediated by seven dual SVE/GWE wells. In addition, the groundwater in the former sump area continues to be remediated by downgradient extraction wells installed prior to and operated separately from the SVE/GWES. The source area has seen decreasing contaminant concentrations due to the remedial efforts, and so has the groundwater removal rate. Each year the subtotal of VOCs removed has decreased in proportion to the source area reduction.

Significant impacts remain at the former sump area. However, the HSVE enhancement has been successful at increasing the VOC removal rate from this area. When the HSVE began in August 1998, an immediate improvement in the VOC removal rate was noted. Approximate contaminant removal rates were calculated based on concentrations in the soil vapor and rate of soil vapor extraction. VOC removal rates ranged from 31 pounds per year to 280 pounds per year.

CURRENT AND POTENTIAL FUTURE SITE AND RESOURCE USES

There are no contemplated changes to the use of the site by either the City of Delavan or Sta-Rite Industries Inc. The City of Delavan plans to continue using Municipal Well No.4 as a source of municipal water. Sta-Rite Industries plans to continue operating their manufacturing facilities on the site.

SITE RISKS

Since the soil vapor and groundwater extraction and treatment systems were installed in June 1994, the groundwater contamination has been contained within the property limits of Sta-Rite Industries Inc. In addition, ongoing groundwater monitoring shows stabilized or continued declining VOC concentrations in the groundwater at Plant No.1 and Plant No.2. The Wisconsin Division of Health reports that contaminated groundwater is not an apparent public health hazard for private well users in the Delavan area. No Delavan-area homes were identified that obtain contaminated drinking water from private wells. Sediments in Swan Creek, where treated water from Sta-Rite is discharged, contained VOCs at levels that are not a health concern.

In 1993, a new air stripping facility began processing water from Well No.4 and one other municipal well, removing all measurable contamination before discharge to the supply system. No community health concerns relating to Delavan Well No. 4 have been reported. Even though the raw water from Well No. 4 is treated before discharge to the municipal system, City monitoring records indicate that raw water from Well No. 4 has not exceeded Wisconsin Ch. NR 140, Wis. Adm. Code, groundwater Enforcement Standards for trichloroethylene, 1,1,1-trichloroethane (TCA) and tetrachloroethylene (PCE) and vinyl chloride since 1993 and currently does not exceed Wisconsin Groundwater Preventive Action Limits.

REMEDIAL ACTION OBJECTIVES

The remedial action objective for contaminated groundwater at the site is to meet ch NR 140, Wis. Adm. Code, groundwater PALs for all contaminants of concern. If groundwater monitoring indicates that it is not technically or economically feasible to achieve PALs, s. NR 140.28 provides standards for the granting of a site-specific exemption from the requirement to achieve PALs. However, an exemption can not be granted for levels higher than Enforcement Standards.

Contaminated unsaturated zone soil at the site must be remediated in accordance with ch NR 720, Wis. Adm. Code. Contaminated soil must be addressed so contaminants migrating from the soil to groundwater do not cause exceedances of Wisconsin groundwater standards. The interim remedial actions, as described above, are considered a soil performance standard in accordance with s. NR 720.19(2), Wis. Adm. Code, provided that they continue to be operated and maintained until the groundwater remedial action objective is met.

Significant soil contaminant removal has occurred since the start of remediation. As a result, it appears that the impacts at the CSES soil source area are significantly reduced, and impacts in the SES soil source area have been successfully remediated. However, the groundwater concentrations adjacent to the SES have not been consistently below PALs, although SVE operations in the CSES continues to remove impacts. Therefore, the SVE operations will continue at these locations on a rotating basis along with the HSVE at the former sump area to address the remaining impacts and to optimize the performance of the SVE system. The SVE will be maintained on a rotating monthly basis in these areas because the system blower works at optimum performance with two legs operating.

DOCUMENTATION OF SIGNIFICANT CHANGES

There were no comments received on the Proposed Plan for this No Action ROD, therefore, no changes were made that were based upon public comment.

RESPONSIVENESS SUMMARY

**City of Delavan Municipal Well No. 4
Delavan, Wisconsin**

Responsiveness Summary Overview

In accordance with CERCLA Section 117, 42 U.S.C. Section 9617, the Wisconsin Department of Natural Resources (WDNR) held a public comment period from August 17, 2000, through September 18, 2000, to allow interested parties to comment on the Proposed Plan/Fact Sheet, September 2000, for this site. The Proposed Plan provides for no further remediation beyond that accomplished already during the Interim Remedial Actions carried out by the PRPs under an agreement with WDNR since 1990.

The purpose of this Responsiveness Summary is to document the WDNR's efforts to

- 1) Inform the public of the pending decision on this Proposed Plan;
- 2) Provide the public with a summary of the technical details of the Interim Remedial Actions and the current environmental conditions at the site;
- 3) Inform the public of the ready availability of much more detailed information about the site, in the form of locally available Site Information Repositories and an Administrative Record for the site;
- 4) Inform the public of the opportunity for interested parties to comment on the Proposed Plan either in person at a locally held Public Hearing or by mail during the public comment period, and
- 5) Provide that opportunity to comment by holding both the Public Hearing and the 30-day comment period

This section does not contain a detailed response to questions, concerns, and comments raised during the comment period or the Public Hearing because no comments were received regarding the Proposed Plan and no one attended the Public Hearing.

Public Notification, Public Hearing, and Public Comment Period

Prior to making a decision on the final remedy for this site, the WDNR was required to hold a minimum 30-day public comment period to allow the public an opportunity to comment on the Proposed Plan of No Further Action at this site.

WDNR arranged for a large display advertisement, announcing the forthcoming public comment period and Public Hearing, to be published in the Delavan Enterprise newspaper, the most widely read local daily newspaper for the site area. The ad was published on August 17, 2000, to comply with WDNR regulations regarding public notice for formal hearings, and to assure that interested parties would be aware of the Proposed Plan and the opportunity for public involvement. The Site Information Repositories and Administrative Record for the site were updated, and copies of the

Fact Sheet/Proposed Plan were added to both Repositories to make them more widely available to interested parties who might not be on the site Contact List.

The Public Hearing was held at 7 p.m. on August 23, 2000, at the Aram Public Library in Delavan, Wisconsin. A representative of the Sta-Rite Industries Inc., attended the public meeting. No one from the general public attended the public meeting.

No comments were received by mail, fax, or e-mail during the comment period. WDNR staff draw the conclusion that the interested public is satisfied with plans to require no further remediation at this site.

For Further Information

Questions about the Proposed Plan or the Remedial Action should be directed to Tom Wentland, Project Manager, WDNR, P.O. Box 12436, Milwaukee, Wisconsin 53212 or phone at 414-229-0853.

All documents used by WDNR in formulating the Proposed plan for this site are contained in the Administrative Record for this site, located at the Aram Public Library, Delavan, Wisconsin, 262-728-3111.

ADMINISTRATIVE RECORD INDEX

These documents were used to prepare the Proposed Plan and the Record of Decision for the site. They are contained in the Administrative Record for the site and may be examined at the Aram Public Library, 404 East Walworth Avenue, Delavan, Wisconsin 53115-1208, Phone: 262-728-3111 or Wisconsin Department of Natural Resources, Waukesha Service Center, 4041 North Richards Street, Milwaukee WI 53212, Phone: 414-229-0800

1. Remedial Investigation / Feasibility Study, Task No. 1 Site Evaluation Report, HSI Geotrans, 1990
2. Remedial Investigation / Feasibility Study, Task No. 2 Project Work Plans, HSI Geotrans, 1991
3. Remedial Investigation / Feasibility Study, Monitoring Well Evaluation, HSI Geotrans, 1991
4. Technical Memorandum No. 1 Source Characterization, HSI Geotrans, 1992
5. Technical Memorandum No. 2 Migration Pathway Assessment, HSI Geotrans 1992
6. Technical Memorandum No. 3 Baseline Risk Assessment, HSI Geotrans, 1993
7. Technical Memorandum No. 4 Contaminant Extent Characterization, HSI Geotrans, 1993
8. Remedial Investigation, HSI Geotrans, 1993
9. Focused Feasibility Study for Interim Remedial Measures, HSI Geotrans, 1993
10. Public Health Assessment for Delavan Municipal Well No. 4, Wic. Dept. Health and Family Services, 1996
11. Annual Progress Reports for Interim Remedial Action, HSI Geotrans, 1996 to 1999

APPENDIX D

**WDNR BRRTS ON THE WEB LIST AND CONTINUING
OBLIGATIONS SHEET FOR THE DELAVAN MUNICIPAL
WELL NO. 4 SUPERFUND SITE**



Wisconsin Department of Natural Resources


Environmental Cleanup & Brownfields Redevelopment

BRRTS on the Web

Click the Location Name below to view the Location Details page for this Activity. Other Activities, if present, may be viewed from that page.

[Basic Search](#) >> 02-65-529579 Activity Details

02-65-529579 DELAVAN MUNICIPAL WELL #4 (SF NPL)						
OPEN ERP						
		Cleanup has been approved at this location but some contamination remains. Due to this remaining residual contamination, one or more continuing obligations are applicable to this location (e.g., an asphalt cap or other barrier covering the contamination). For information specific to the continuing obligations at this location, read the Closure Letter within the GIS Registry Packet in the Documents section below. For general information on managing continuing obligations and residual contamination click here . You must contact DNR before constructing a well. Remaining contamination must be properly handled if disturbed.				
Location Name <small>(Click Location Name to View Location Details)</small>				County	WDNR Region	
DELAVAN MUNICIPAL WELL #4				WALWORTH	SOUTHEAST	
Address				Municipality		
290 S WRIGHT ST				DELAVAN		
Public Land Survey System			Latitude	Google Maps	RR Sites Map	
NE 1/4 of the SE 1/4 of Sec 17, T02N, R16E			42.6316077	CLICK TO VIEW	CLICK TO VIEW	
Additional Location Description			Longitude	Facility ID	Size (Acres)	
			-88.6228306	265091640	UNKNOWN	
Jurisdiction	PECFA No.	EPA Cerclis ID	Start Date	End Date	Last Action	
DNR RR		WID980820062	1983-05-01		2017-10-25	
Comments						
INFORMATION FROM SUPERFUND SITE 05-65-111738 MOVED TO THIS ERP ACTIVITY ON 08-04-04 PREVIOUSLY TRACKED AS SUPERFUND ACTIVITY NUMBER 05-65-529579.						
Characteristics						
PECFA Tracked?	EPA NPL Site?	Eligible for PECFA Funds?	Above Ground Storage Tank?	Drycleaner?	Co-Contamination?	On GIS Registry? 
No	Yes	No	No	No	No	Yes
Actions						
<small>Place Cursor Over Action Code to View Description</small>						
Date	Code	Name	Comment			
1983-05-01	1	Notification				
1983-05-01	301	Superfund NPL, NPL-proposed or Superfund Alternatives Site	301 DATE BASED ON FINAL NPL LISTING DATE			
1983-05-01	351	Superfund Site Assessment Site Inspection (SI)				
1983-06-01	350	Superfund Site Assessment Preliminary Assessment (PA)				
1993-03-12	307	Superfund Final Remedial Investigation Approval				
1993-03-18	321	Superfund: Final Design Plans Submittal				
1998-05-28	99	Miscellaneous	ANNUAL PROGRESS REPORT			
1999-07-21	99	Miscellaneous	ANNUAL PROGRESS REPORT			
2000-09-28	315	Superfund: ROD				
2000-09-29	56	Continuing Obligation(s) Required - GIS Registry Site				

Linked to Code 56: 0265529579_Registry_Packet.pdf Click to Download or Open			
2000-09-29	149	Remedial Action Design Report Approved	
2000-09-29	228	Continuing Obligation - Site Specific Condition	SOIL/GW VAPOR EXTRACTION SYS AT LF
2000-09-29	220	Continuing Obligation - Soil at Industrial Levels	
2001-07-06	99	Miscellaneous	PROGRESS REPORT
2005-09-27	99	Miscellaneous	FIVE YEAR REVIEW REPORT
2015-02-09	99	Miscellaneous	FIVE YEAR REVIEW IN PROGRESS
2015-12-09	99	Miscellaneous	FIVE YEAR REVIEW APPROVED BY EPA 8-17-2015
2016-11-09	99	Miscellaneous	ASSISTING EPA ON IC PLAN AND READY FOR REUSE STATUS
2017-10-25	99	Miscellaneous	REQUEST FOR INSTITUTIONAL CONTROL IMPLEMENTATION AND ASSURANCE PLAN
Linked to Code 99: 20171025_99_CO_Ltr.pdf Click to Download or Open			
Other Documents and Images Not Linked to Actions Above Click File Name to Download or Open			
Category	File Name	Size (bytes)	Type
NPL Webpage	http://www.epa.gov/region5/superfund/npl/wisconsin/wid980820062.html	URL	url
NPL Webpage	http://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0505165	URL	url
Financial  Grants, Loans, DERF Expenditures, State-Funded and Spill Response			
Category	Fiscal Year	Amount	
State-Funded Response : Cost	0000	\$12,550	
State-Funded Response : Cost	2001	\$56	
State-Funded Response : Cost	2010	\$155	
Who			
Role	Name/Address		
Project Manager	THOMAS WENTLAND 1155 PILGRIM PARKWAY PLYMOUTH, WI 53073		

BRRTS data comes from various sources, both internal and external to DNR. There may be omissions and errors in the data and delays in updating new information. Please see the [disclaimers page](#) for more information. We welcome your [Feedback](#).

The Official Internet site for the Wisconsin Department of Natural Resources
 101 S. Webster Street . PO Box 7921 . Madison, Wisconsin 53707-7921 . 608.266.2621

Release 2.6.3 | 09/28/2017 | [Release Notes](#)



Delavan Municipal Well No. 4 Site



Legend

- Open Site (ongoing cleanup)
- Closed Site (completed cleanup)
- Groundwater Contamination
- Soil Contamination
- Groundwater and Soil Contamination
- Dryclean Environmental Response Fund (DERF)
- Green Space Grant (2004-2009)
- Ready for Reuse
- Site Assessment Grant (2001-2009)
- State Funded Response
- Sustainable Urban Development Zone (SUDZ)
- Municipality
- State Boundaries
- County Boundaries
- Major Roads**
 - Interstate Highway
 - State Highway
 - US Highway
- County and Local Roads**
 - County HWY
 - Local Road
- Railroads
- Tribal Lands

0.3 0 0.13 0.3 Miles

NAD_1983_HARN_Wisconsin_TM

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1: 7,920



DISCLAIMER: The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/org/legal/>

Note: Not all sites are mapped.

Notes

Ongoing Cleanups with Continuing Obligations Cover Sheet

April, 2010
(RR 5391)

Purpose

This cover sheet summarizes continuing obligations regarding environmental conditions on this property. Continuing obligations are legal mechanisms that:

- 1) Require or restrict certain actions to protect human health or the environment.
- 2) Minimize human and natural resource exposure to contamination, and/or
- 3) Give notice of the **existence** of residual contamination

Learn more about continuing obligations at <http://dnr.wi.gov/org/aw/rr/cleanup/obligations.htm>

DNR Property Information:

DNR Approval Date: Sep 28, 2000

BRRTS #: 02-65-529579 FID #: 265091640

ACTIVITY NAME: DELAVAN MUNICIPAL WELL #4

PROPERTY ADDRESS: 290 S WRIGHT ST

MUNICIPALITY: DELAVAN (WALWORTH COUNTY)

PARCEL ID #: XWUP 00195

*WTM COORDINATES:

X: 632920 Y: 240826

*Coordinates are in WTM83, NAD83 (1991)

WTM COORDINATES REPRESENT:

- Approximate Center Of Continuing Obligations
 Approximate Source Parcel Center

Please use the CLEAN system at <http://dnr.wi.gov/org/aw/rr/clean.htm> for additional DNR site information.

EPA Superfund Information (if applicable):

EPA ID: WID980820062 To view more information click on the EPA ID.

SITE NAME: DELAVAN MUNICIPAL WELL #4

Requirements for all properties with Continuing Obligations

1. Properly manage contaminated soil if it is excavated. Sample and arrange appropriate treatment or disposal.
2. DNR approval is required if a water supply well will be constructed or reconstructed.

Site-Specific Requirement(s) - (BRRTS Action Code)

- | | |
|--|---|
| <input type="checkbox"/> A "cap" over the contaminated area must be: (222)
<input type="checkbox"/> Constructed & Maintained <input type="checkbox"/> Maintained | <input type="checkbox"/> A structural impediment (e.g. building) is present which inhibited investigation/cleanup. Further environment work may be required if the impediment is removed. (224) |
| <input checked="" type="checkbox"/> A vapor mitigation system must be: (226)
<input type="checkbox"/> Constructed & Maintained <input checked="" type="checkbox"/> Maintained | <input type="checkbox"/> DNR has directed a local government unit (LGU) to take an action and a LGU liability exemption applies. This exemption does not transfer to future private owners. (230) |
| <input type="checkbox"/> The need for vapor control technology must be evaluated if a building will be constructed. (228) | <input checked="" type="checkbox"/> Another type of continuing obligation has been established in DNR's remedial action plan approval. (228)
<i>Explain:</i> |
| <input checked="" type="checkbox"/> The approved soil cleanup level is suitable for industrial use of the property. (220) | <div style="border: 1px solid black; padding: 5px;">-Soil/Groundwater vapor extraction system</div> |
| <input type="checkbox"/> DNR has approved construction on an abandoned landfill and certain maintenance requirements apply. (402) or (404) | |

APPENDIX E
PENTAIR FLOW TECHNOLOGIES DELAVAN FACILITY
WPDES PERMIT



WPDES PERMIT

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
**PERMIT TO DISCHARGE UNDER THE WISCONSIN POLLUTANT DISCHARGE
ELIMINATION SYSTEM**

Pentair Flow Technologies

is permitted, under the authority of Chapter 283, Wisconsin Statutes, to discharge from a facility
located at
293 S Wright Street, Delavan, WI
to

**An unnamed tributary to Swan Creek via storm sewer (Turtle Creek watershed, Lower Rock River Basin)
in Walworth County**

in accordance with the effluent limitations, monitoring requirements and other conditions set
forth in this permit.

The permittee shall not discharge after the date of expiration. If the permittee wishes to continue to discharge after this expiration date an application shall be filed for reissuance of this permit, according to Chapter NR 200, Wis. Adm. Code, at least 180 days prior to the expiration date given below.

State of Wisconsin Department of Natural Resources

For the Secretary

By



Tim Ryan

Wastewater Field Supervisor

9/24/2015
Date Permit Signed/Issued

PERMIT TERM: EFFECTIVE DATE – October 01, 2015

EXPIRATION DATE - September 30, 2020

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1 Surface Water Requirements

1.1 Sampling Point(s)

The discharge(s) shall be limited to the waste type(s) designated for the listed sampling point(s).

Sampling Point Designation	
Sampling Point Number	Sampling Point Location, Waste Type/Sample Contents and Treatment Description (as applicable)
001	Effluent: Grab sample of discharge from partially aerated VOC contaminated groundwater, large open pit test stands, and reverse osmosis units taken at the storm sewer manhole located on south side of Hobbs Drive near the intersection of Hobbs Drive and Wright Street.

1.2 Monitoring Requirements and Effluent Limitations

The permittee shall comply with the following monitoring requirements and limitations.

1.2.1 Sampling Point (Outfall) 001 - Storm sewer manhole

Monitoring Requirements and Effluent Limitations					
Parameter	Limit Type	Limit and Units	Sample Frequency	Sample Type	Notes
Flow Rate		MGD	Monthly	Total Daily	
Temperature		deg F	Monthly	Grab	
Suspended Solids, Total		mg/L	Monthly	Grab	See Total Suspended Solids Limitations subsection below and the Schedules section.
Phosphorus, Total	Monthly Avg	0.24 mg/L	Monthly	Grab	Note that this is an interim limit. The final phosphorus limits are 0.075 mg/L (0.467 lbs/day) as a six month average and 0.225 mg/L as a monthly average and are effective at the end of the compliance schedule. See the Phosphorus subsections below.
Phosphorus, Total		lbs/day	Monthly	Calculated	See phosphorus subsections below for final limits. Calculate the daily mass discharge of phosphorus in lbs/day on the same day phosphorus sampling occurs. Daily mass (lbs/day) = daily concentration (mg/L) x daily flow (MGD) x 8.34.
Tetrachloroethylene	Monthly Avg	50 µg/L	Monthly	Grab	

Monitoring Requirements and Effluent Limitations					
Parameter	Limit Type	Limit and Units	Sample Frequency	Sample Type	Notes
Trichloro-ethylene	Monthly Avg	50 µg/L	Monthly	Grab	
1,1,1-Trichloro-ethane	Monthly Avg	50 µg/L	Monthly	Grab	
Vinyl chloride	Monthly Avg	10 µg/L	Monthly	Grab	
Chloride		mg/L	Quarterly	Grab	

1.2.1.1 Total Suspended Solids Total Maximum Daily Load (TMDL) Limitations

The Rock River TMDL Waste Load Allocation (WLA) for Phosphorus and Total Suspended Solids was approved by the U.S. Environmental Protection Agency on September 28, 2011. Pentair Flow Technologies, Inc is located on reach 80 of the Rock River from mile 24-32 as identified in the Rock River TMDL. The Total Suspended Solids load reduction target for this facility is unspecified, but total reduction for point sources in this reach is 1%.

Narrative Total Suspended Solids Limitation: The permittee shall monitor total suspended solids (TSS) throughout the permit term. Pentair Flow Technologies shall reduce TSS as much as practical from their discharge and continue to minimize TSS in their discharge. Any reduction in TSS made by Pentair would result in an additional reduction from the baseline used to develop the Rock River TMDL.

1.2.1.2 Phosphorus Water Quality Based Effluent Limitation(s)

The final water quality based effluent limit for phosphorus is **0.075 mg/L and 0.467 lbs/day as a six-month seasonal average (averaged during the months of May-October and November-April) and 0.225 mg/L as a monthly average**, and will take effect per the Phosphorus compliance schedule in the Schedules section of the permit unless:

- (A) As part of the application for the next reissuance, or prior to filing the application, the permittee submits either: 1.) a watershed adaptive management plan and a completed Watershed Adaptive Management Request Form 3200-139; or 2.) an application for water quality trading; or 3.) an application for a variance; or 4.) new information or additional data that supports a recalculation of the numeric limitation; and
- (B) The Department modifies, revokes and reissues, or reissues the permit to incorporate a revised limitation before the expiration of the compliance schedule*.

Note: The permittee may also submit an application for a variance within 60 days of this permit reissuance, as noted in the permit cover letter, in accordance with s. 283.15, Stats.

If Adaptive Management or Water Quality Trading is approved as part of the permit application for the next reissuance or as part of an application for a modification or revocation and reissuance, the plan and specifications submittal, construction, and final effective dates for compliance with the total phosphorus WQBEL may change in the reissued or modified permit. In addition, the numeric value of the water quality based effluent limit may change based on new information (e.g. a TMDL) or additional data. If a variance is approved for the next reissuance, interim limits and conditions will be imposed in the reissued permit in accordance with s. 283.15, Stats., and applicable regulations. A permittee may apply for a variance to the phosphorus WQBEL at the next reissuance even if the permittee did not apply for a phosphorus variance as part of this permit reissuance.

Additional Requirements: If a water quality based effluent limit has taken effect in a permit, any increase in the limit is subject to s. NR 102.05(1) and ch. NR 207, Wis. Adm. Code. When a six-month average effluent limit is specified for Total Phosphorus the applicable averaging periods are May through October and November through April.

*Note: The Department will prioritize reissuances and revocations, modifications, and reissuances of permits to allow permittees the opportunity to implement adaptive management or nutrient trading in a timely and effective manner.

1.2.1.3 Alternative Approaches to Phosphorus WQBEL Compliance

Rather than upgrading its wastewater treatment facility to comply with WQBELs for total phosphorus, the permittee may use Water Quality Trading or the Watershed Adaptive Management Option, to achieve compliance under ch. NR 217, Wis. Adm. Code, provided that the permit is modified, revoked and reissued, or reissued to incorporate any such alternative approach. The permittee may also implement an upgrade to its wastewater treatment facility in combination with Water Quality Trading or the Watershed Adaptive Management Option to achieve compliance, provided that the permit is modified, revoked and reissued, or reissued to incorporate any such alternative approach. If the Final Compliance Alternatives Plan concludes that a variance will be pursued, the Plan shall provide information regarding the basis for the variance.

1.2.1.4 Submittal of Permit Application for Next Reissuance and Adaptive Management or Pollutant Trading Plan or Variance Application

The permittee shall submit the permit application for the next reissuance at least 6 months prior to expiration of this permit. If the permittee intends to pursue adaptive management to achieve compliance with the phosphorus water quality based effluent limitation, the permittee shall submit with the application for the next reissuance: a completed Watershed Adaptive Management Request Form 3200-139, the completed Adaptive Management Plan and final plans for any system upgrades necessary to meet interim limits pursuant to s. NR 217.18, Wis. Adm. Code. If the permittee intends to pursue pollutant trading to achieve compliance, the permittee shall submit an application for water quality trading with the application for the next reissuance. If system upgrades will be used in combination with pollutant trading to achieve compliance with the final water quality-based limit, the reissued permit will specify a schedule for the necessary upgrades. If the permittee intends to seek a variance, the permittee shall submit an application for a variance with the application for the next reissuance.

2 Schedules

2.1 Total Suspended Solids

No later than 30 days following each compliance date, the permittee shall notify the Department in writing of its compliance or noncompliance with the required action. If a submittal is part of the required action then a timely submittal fulfills the written notification requirement.

Required Action	Due Date
<p>Total Suspended Solids Report: The permittee shall prepare and submit a report that includes an evaluation of collected effluent data, possible source reduction measures and operational improvements to optimize removal of total suspended solids in the discharge. The report shall provide a plan and schedule for implementation of the measures and improvements as soon as possible but no later than July 1, 2018. The permittee shall implement the measures and improvements in accordance with the plan and schedule specified in the report.</p>	07/01/2018

2.2 Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus

The permittee shall comply with the WQBELs for Phosphorus as specified. No later than 30 days following each compliance date, the permittee shall notify the Department in writing of its compliance or noncompliance. If a submittal is required, a timely submittal fulfills the notification requirement.

Required Action	Due Date
<p>Operational Evaluation Report: The permittee shall prepare and submit to the Department for approval an operational evaluation report. The report shall include an evaluation of collected effluent data, possible source reduction measures, operational improvements or other minor facility modifications that will optimize reductions in phosphorus discharges from the facility during the period prior to complying with final phosphorus WQBELs and, where possible, enable compliance with final phosphorus WQBELs by September 30, 2018. The report shall provide a plan and schedule for implementation of the measures, improvements, and modifications as soon as possible, but not later than September 30, 2018 and state whether the measures, improvements, and modifications will enable compliance with final phosphorus WQBELs. Regardless of whether they are expected to result in compliance, the permittee shall implement the measures, improvements, and modifications in accordance with the plan and schedule specified in the operational evaluation report.</p> <p>If the operational evaluation report concludes that the facility can achieve final phosphorus WQBELs using the existing treatment system with only source reduction measures, operational improvements, and minor facility modifications, the permittee shall comply with the final phosphorus WQBEL by September 30, 2018 and is not required to comply with the milestones identified below for years 3 through 9 of this compliance schedule ('Preliminary Compliance Alternatives Plan', 'Final Compliance Alternatives Plan', 'Final Plans and Specifications', 'Treatment Plant Upgrade to Meet WQBELs', 'Complete Construction', 'Achieve Compliance').</p> <p>STUDY OF FEASIBLE ALTERNATIVES - If the Operational Evaluation Report concludes that the permittee cannot achieve final phosphorus WQBELs with source reduction measures, operational improvements and other minor facility modifications, the permittee shall initiate a study of feasible alternatives for meeting final phosphorus WQBELs and comply with the remaining required actions of this schedule of compliance. If the Department disagrees with the conclusion of the report, and determines that the permittee can achieve final phosphorus WQBELs using the existing treatment system with only source reduction measures, operational improvements, and minor facility modifications, the Department may reopen and modify the permit to include an implementation</p>	09/30/2016

<p>schedule for achieving the final phosphorus WQBELs sooner than September 30, 2024.</p>	
<p>Compliance Alternatives, Source Reduction, Improvements and Modifications Status: The permittee shall submit a 'Compliance Alternatives, Source Reduction, Operational Improvements and Minor Facility Modification' status report to the Department. The report shall provide an update on the permittee's: (1) progress implementing source reduction measures, operational improvements, and minor facility modifications to optimize reductions in phosphorus discharges and, to the extent that such measures, improvements, and modifications will not enable compliance with the WQBELs, (2) status evaluating feasible alternatives for meeting phosphorus WQBELs.</p>	<p>09/30/2017</p>
<p>Preliminary Compliance Alternatives Plan: The permittee shall submit a preliminary compliance alternatives plan to the Department.</p> <p>If the plan concludes upgrading of the permittee's facility is necessary to achieve final phosphorus WQBELs, the submittal shall include a preliminary engineering design report.</p> <p>If the plan concludes Adaptive Management will be used, the submittal shall include a completed Watershed Adaptive Management Request Form 3200-139 without the Adaptive Management Plan.</p> <p>If water quality trading will be undertaken, the plan must state that trading will be pursued.</p>	<p>09/30/2018</p>
<p>Final Compliance Alternatives Plan: The permittee shall submit a final compliance alternatives plan to the Department.</p> <p>If the plan concludes upgrading of the permittee's facility is necessary to meet final phosphorus WQBELs, the submittal shall include a final engineering design report addressing the treatment system upgrades, and a facility plan if required pursuant to ch. NR 110, Wis. Adm. Code.</p> <p>If the plan concludes Adaptive Management will be implemented, the submittal shall include a completed Watershed Adaptive Management Request Form 3200-139 and an engineering report addressing any treatment system upgrades necessary to meet interim limits pursuant to s. NR 217.18, Wis. Adm. Code.</p> <p>If the plan concludes water quality trading will be used, the submittal shall identify potential trading partners.</p> <p>Note: See 'Alternative Approaches to Phosphorus WQBEL Compliance' in the Surface Water section of this permit.</p>	<p>09/30/2019</p>
<p>Progress Report on Plans & Specifications: Submit progress report regarding the progress of preparing final plans and specifications. Note: See 'Alternative Approaches to Phosphorus WQBEL Compliance' in the Surface Water section of this permit.</p>	<p>09/30/2020</p>
<p>Final Plans and Specifications: Unless the permit has been modified, revoked and reissued, or reissued to include Adaptive Management or Water Quality Trading measures or to include a revised schedule based on factors in s. NR 217.17, Wis. Adm. Code, the permittee shall submit final construction plans to the Department for approval pursuant to s. 281.41, Stats., specifying treatment system upgrades that must be constructed to achieve compliance with final phosphorus WQBELs, and a schedule for completing construction of the upgrades by the complete construction date specified below. (Note: Permit modification, revocation and reissuance, and reissuance are subject to s. 283.53(2), Stats.)</p> <p>Note: See 'Alternative Approaches to Phosphorus WQBEL Compliance' in the Surface Water section of this permit.</p>	<p>09/30/2021</p>
<p>Treatment System Upgrade to Meet WQBELs: The permittee shall initiate construction of the upgrades. The permittee shall obtain approval of the final construction plans and schedule from the Department pursuant to s. 281.41, Stats. Upon approval of the final construction plans and schedule</p>	<p>12/31/2021</p>

by the Department pursuant to s. 281.41, Stats., the permittee shall construct the treatment system upgrades in accordance with the approved plans and specifications. Note: See 'Alternative Approaches to Phosphorus WQBEL Compliance' in the Surface Water section of this permit.	
Construction Upgrade Progress Report #1: The permittee shall submit a progress report on construction upgrades. Note: See 'Alternative Approaches to Phosphorus WQBEL Compliance' in the Surface Water section of this permit.	12/31/2022
Construction Upgrade Progress Report #2: The permittee shall submit a progress report on construction upgrades. Note: See 'Alternative Approaches to Phosphorus WQBEL Compliance' in the Surface Water section of this permit.	09/30/2023
Complete Construction: The permittee shall complete construction of wastewater treatment system upgrades. Note: See 'Alternative Approaches to Phosphorus WQBEL Compliance' in the Surface Water section of this permit.	08/31/2024
Achieve Compliance: The permittee shall achieve compliance with final phosphorus WQBELs. Note: See 'Alternative Approaches to Phosphorus WQBEL Compliance' in the Surface Water section of this permit.	09/30/2024

3 Standard Requirements

NR 205, Wisconsin Administrative Code (Conditions for Industrial Dischargers): The conditions in ss. NR 205.07(1) and NR 205.07(3), Wis. Adm. Code, are included by reference in this permit. The permittee shall comply with all of these requirements. Some of these requirements are outlined in the Standard Requirements section of this permit. Requirements not specifically outlined in the Standard Requirement section of this permit can be found in ss. NR 205.07(1) and NR 205.07(3).

3.1 Reporting and Monitoring Requirements

3.1.1 Monitoring Results

Monitoring results obtained during the previous month shall be summarized and reported on a Department Wastewater Discharge Monitoring Report. The report may require reporting of any or all of the information specified below under 'Recording of Results'. This report is to be returned to the Department no later than the date indicated on the form. A copy of the Wastewater Discharge Monitoring Report Form or an electronic file of the report shall be retained by the permittee.

Monitoring results shall be reported on an electronic discharge monitoring report (eDMR). The eDMR shall be certified electronically by a principal executive officer, a ranking elected official or other duly authorized representative. The 'eReport Certify' page certifies that the electronic report form is true, accurate and complete.

If the permittee monitors any pollutant more frequently than required by this permit, the results of such monitoring shall be included on the Wastewater Discharge Monitoring Report.

The permittee shall comply with all limits for each parameter regardless of monitoring frequency. For example, monthly, weekly, and/or daily limits shall be met even with monthly monitoring. The permittee may monitor more frequently than required for any parameter.

3.1.2 Sampling and Testing Procedures

Sampling and laboratory testing procedures shall be performed in accordance with Chapters NR 218 and NR 219, Wis. Adm. Code and shall be performed by a laboratory certified or registered in accordance with the requirements of ch. NR 149, Wis. Adm. Code. Groundwater sample collection and analysis shall be performed in accordance with ch. NR 140, Wis. Adm. Code. The analytical methodologies used shall enable the laboratory to quantitate all substances for which monitoring is required at levels below the effluent limitation. If the required level cannot be met by any of the methods available in NR 219, Wis. Adm. Code, then the method with the lowest limit of detection shall be selected. Additional test procedures may be specified in this permit.

3.1.3 Recording of Results

The permittee shall maintain records which provide the following information for each effluent measurement or sample taken:

- the date, exact place, method and time of sampling or measurements;
- the individual who performed the sampling or measurements;
- the date the analysis was performed;
- the individual who performed the analysis;
- the analytical techniques or methods used; and
- the results of the analysis.

3.1.4 Reporting of Monitoring Results

The permittee shall use the following conventions when reporting effluent monitoring results:

- Pollutant concentrations less than the limit of detection shall be reported as < (less than) the value of the limit of detection. For example, if a substance is not detected at a detection limit of 0.1 mg/L, report the pollutant concentration as < 0.1 mg/L.
- Pollutant concentrations equal to or greater than the limit of detection, but less than the limit of quantitation, shall be reported and the limit of quantitation shall be specified.
- For purposes of calculating NR 101 fees, the 2 mg/l lower reporting limits for BOD₅ and Total Suspended Solids shall be considered to be limits of quantitation
- For the purposes of reporting a calculated result, average or a mass discharge value, the permittee may substitute a 0 (zero) for any pollutant concentration that is less than the limit of detection. However, if the effluent limitation is less than the limit of detection, the department may substitute a value other than zero for results less than the limit of detection, after considering the number of monitoring results that are greater than the limit of detection and if warranted when applying appropriate statistical techniques.

3.1.5 Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit for a period of at least 3 years from the date of the sample, measurement, report or application, except for sludge management forms and records, which shall be kept for a period of at least 5 years.

3.1.6 Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or correct information to the Department.

3.2 System Operating Requirements

3.2.1 Noncompliance Reporting

The permittee shall report the following types of noncompliance by a telephone call to the Department's regional office within 24 hours after becoming aware of the noncompliance:

- any noncompliance which may endanger health or the environment;
- any violation of an effluent limitation resulting from a bypass;
- any violation of an effluent limitation resulting from an upset; and
- any violation of a maximum discharge limitation for any of the pollutants listed by the Department in the permit, either for effluent or sludge.

A written report describing the noncompliance shall also be submitted to the Department as directed at the end of this permit within 5 days after the permittee becomes aware of the noncompliance. On a case-by-case basis, the Department may waive the requirement for submittal of a written report within 5 days and instruct the permittee to submit the written report with the next regularly scheduled monitoring report. In either case, the written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance; and if the noncompliance has not been corrected, the length of time it is expected to continue.

A scheduled bypass approved by the Department under the 'Scheduled Bypass' section of this permit shall not be subject to the reporting required under this section.

NOTE: Section 292.11(2)(a), Wisconsin Statutes, requires any person who possesses or controls a hazardous substance or who causes the discharge of a hazardous substance to notify the Department of Natural Resources **immediately** of any discharge not authorized by the permit. **The discharge of a hazardous substance that is not authorized by this permit or that violates this permit may be a hazardous substance spill. To report a hazardous substance spill, call DNR's 24-hour HOTLINE at 1-800-943-0003.**

3.2.2 Bypass

Except for a controlled diversion as provided in the 'Controlled Diversions' section of this permit, any bypass is prohibited and the Department may take enforcement action against a permittee for such occurrences under s. 283.89, Wis. Stats. The Department may approve a bypass if the permittee demonstrates all the following conditions apply:

- The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities or adequate back-up equipment, retention of untreated wastes, reduction of inflow and infiltration, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance. When evaluating feasibility of alternatives, the department may consider factors such as technical achievability, costs and affordability of implementation and risks to public health, the environment and, where the permittee is a municipality, the welfare of the community served; and
- The bypass was reported in accordance with the 'Noncompliance Reporting' section of this permit.

3.2.3 Scheduled Bypass

Whenever the permittee anticipates the need to bypass for purposes of efficient operations and maintenance and the permittee may not meet the conditions for controlled diversions in the 'Controlled Diversions' section of this permit, the permittee shall obtain prior written approval from the Department for the scheduled bypass. A permittee's written request for Department approval of a scheduled bypass shall demonstrate that the conditions for unscheduled bypassing are met and include the proposed date and reason for the bypass, estimated volume and duration of the bypass, alternatives to bypassing and measures to mitigate environmental harm caused by the bypass. The department may require the permittee to provide public notification for a scheduled bypass if it is determined there is significant public interest in the proposed action and may recommend mitigation measures to minimize the impact of such bypass.

3.2.4 Controlled Diversions

Controlled diversions are allowed only when necessary for essential maintenance to assure efficient operation provided the following requirements are met:

- Effluent from the wastewater treatment facility shall meet the effluent limitations established in the permit. Wastewater that is diverted around a treatment unit or treatment process during a controlled diversion shall be recombined with wastewater that is not diverted prior to the effluent sampling location and prior to effluent discharge;
- A controlled diversion may not occur during periods of excessive flow or other abnormal wastewater characteristics;
- A controlled diversion may not result in a wastewater treatment facility overflow; and
- All instances of controlled diversions shall be documented in wastewater treatment facility records and such records shall be available to the department on request.

3.2.5 Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of this permit. The wastewater treatment facility shall be under the direct supervision of a state certified operator as required in s. NR 108.06(2), Wis. Adm. Code. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training as required in ch. NR 114, Wis. Adm. Code, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

3.2.6 Spill Reporting

The permittee shall notify the Department in accordance with ch. NR 706 (formerly NR 158), Wis. Adm. Code, in the event that a spill or accidental release of any material or substance results in the discharge of pollutants to the waters of the state at a rate or concentration greater than the effluent limitations established in this permit, or the spill or accidental release of the material is unregulated in this permit, unless the spill or release of pollutants has been reported to the Department in accordance with s. NR 205.07 (1)(s), Wis. Adm. Code.

3.2.7 Planned Changes

In accordance with ss. 283.31(4)(b) and 283.59, Stats., the permittee shall report to the Department any facility expansion, production increase or process modifications which will result in new, different or increased discharges of pollutants. The report shall either be a new permit application, or if the new discharge will not violate the effluent limitations of this permit, a written notice of the new, different or increased discharge. The notice shall contain a description of the new activities, an estimate of the new, different or increased discharge of pollutants and a description of the effect of the new or increased discharge on existing waste treatment facilities. Following receipt of this report, the Department may modify this permit to specify and limit any pollutants not previously regulated in the permit.

3.2.8 Duty to Halt or Reduce Activity

Upon failure or impairment of treatment facility operation, the permittee shall, to the extent necessary to maintain compliance with its permit, curtail production or wastewater discharges or both until the treatment facility operations are restored or an alternative method of treatment is provided.

3.3 Surface Water Requirements

3.3.1 Permittee-Determined Limit of Quantitation Incorporated into this Permit

For pollutants with water quality-based effluent limits below the Limit of Quantitation (LOQ) in this permit, the LOQ calculated by the permittee and reported on the Discharge Monitoring Reports (DMRs) is incorporated by reference into this permit. The LOQ shall be reported on the DMRs, shall be the lowest quantifiable level practicable, and shall be no greater than the minimum level (ML) specified in or approved under 40 CFR Part 136 for the pollutant at the time this permit was issued, unless this permit specifies a higher LOQ.

3.3.2 Appropriate Formulas for Effluent Calculations

The permittee shall use the following formulas for calculating effluent results to determine compliance with average concentration limits and mass limits and total load limits:

Weekly/Monthly/Six-Month/Annual Average Concentration = the sum of all daily results for that week/month/six-month/year, divided by the number of results during that time period. [Note: When a six-month average effluent limit is specified for Total Phosphorus the applicable periods are May through October and November through April.]

Weekly Average Mass Discharge (lbs/day): Daily mass = daily concentration (mg/L) x daily flow (MGD) x 8.34, then average the daily mass values for the week.

Monthly Average Mass Discharge (lbs/day): Daily mass = daily concentration (mg/L) x daily flow (MGD) x 8.34, then average the daily mass values for the month.

Six-Month Average Mass Discharge (lbs/day): Daily mass = daily concentration (mg/L) x daily flow (MGD) x 8.34, then average the daily mass values for the six-month period. [Note: When a six-month average effluent limit is specified for Total Phosphorus the applicable periods are May through October and November through April.]

Annual Average Mass Discharge (lbs/day): Daily mass = daily concentration (mg/L) x daily flow (MGD) x 8.34, then average the daily mass values for the entire year.

Total Monthly Discharge: = monthly average concentration (mg/L) x total flow for the month (MG/month) x 8.34.

Total Annual Discharge: = sum of total monthly discharges for the calendar year.

12-Month Rolling Sum of Total Monthly Discharge: = the sum of the most recent 12 consecutive months of Total Monthly Discharges.

3.3.3 Effluent Temperature Requirements

Weekly Average Temperature – The permittee shall use the following formula for calculating effluent results to determine compliance with the weekly average temperature limit (as applicable): Weekly Average Temperature = the sum of all daily maximum results for that week divided by the number of daily maximum results during that time period.

Cold Shock Standard – Water temperatures of the discharge shall be controlled in a manner as to protect fish and aquatic life uses from the deleterious effects of cold shock. ‘Cold Shock’ means exposure of aquatic organisms to a rapid decrease in temperature and a sustained exposure to low temperature that induces abnormal behavior or physiological performance and may lead to death.

Rate of Temperature Change Standard – Temperature of a water of the state or discharge to a water of the state may not be artificially raised or lowered at such a rate that it causes detrimental health or reproductive effects to fish or aquatic life of the water of the state.

3.3.4 Visible Foam or Floating Solids

There shall be no discharge of floating solids or visible foam in other than trace amounts.

3.3.5 Surface Water Uses and Criteria

In accordance with NR 102.04, Wis. Adm. Code, surface water uses and criteria are established to govern water management decisions. Practices attributable to municipal, industrial, commercial, domestic, agricultural, land development or other activities shall be controlled so that all surface waters including the mixing zone meet the following conditions at all times and under all flow and water level conditions:

- a) Substances that will cause objectionable deposits on the shore or in the bed of a body of water, shall not be present in such amounts as to interfere with public rights in waters of the state.
- b) Floating or submerged debris, oil, scum or other material shall not be present in such amounts as to interfere with public rights in waters of the state.
- c) Materials producing color, odor, taste or unsightliness shall not be present in such amounts as to interfere with public rights in waters of the state.

- d) Substances in concentrations or in combinations which are toxic or harmful to humans shall not be present in amounts found to be of public health significance, nor shall substances be present in amounts which are acutely harmful to animal, plant or aquatic life.

4 Summary of Reports Due

FOR INFORMATIONAL PURPOSES ONLY

Description	Date	Page
Total Suspended Solids -Total Suspended Solids Report	July 1, 2018	4
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Operational Evaluation Report	September 30, 2016	4
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Compliance Alternatives, Source Reduction, Improvements and Modifications Status	September 30, 2017	5
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Preliminary Compliance Alternatives Plan	September 30, 2018	5
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Final Compliance Alternatives Plan	September 30, 2019	5
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Progress Report on Plans & Specifications	September 30, 2020	5
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Final Plans and Specifications	September 30, 2021	5
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Treatment System Upgrade to Meet WQBELs	December 31, 2021	6
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Construction Upgrade Progress Report #1	December 31, 2022	6
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Construction Upgrade Progress Report #2	September 30, 2023	6
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Complete Construction	August 31, 2024	6
Water Quality Based Effluent Limits (WQBELs) for Total Phosphorus - Achieve Compliance	September 30, 2024	6
Wastewater Discharge Monitoring Report	no later than the date indicated on the form	7

Report forms shall be submitted electronically in accordance with the reporting requirements herein. Any facility plans or plans and specifications for municipal, industrial, industrial pretreatment and non industrial wastewater systems shall be submitted to the Bureau of Water Quality, P.O. Box 7921, Madison, WI 53707-7921. All other submittals required by this permit shall be submitted to:
Southeast Region, 2300 N Dr ML King Drive, Milwaukee, WI 53212

APPENDIX F

**CITY OF DELAVAN ZONING CODE
SUBCHAPTER 23-2: LAND USE REGULATIONS AND
SUBCHAPTER 24-9: ADMINISTRATION AND ENFORCEMENT**

CHAPTER 23: ZONING STANDARDS

SUBCHAPTER 23-2: LAND USE REGULATIONS

Section 23.201 Purpose

The purpose of this Subchapter is to indicate which land uses may locate in each zoning district and under what requirements; and which land uses may not locate therein. A further distinction is made for land uses which may locate in a given district only upon obtaining a conditional or temporary use permit to do so. Finally, certain land uses may locate in a given district as a matter of right upon compliance with special regulations for such a land use.

Section 23.202 Interpretation of Land Use Tables

- (1) The land uses listed in Sections 23.203 (Table of Land Uses) and 23.204 (Table of Land Uses Permitted in Permanently Protected Green Space Areas) are specifically designated and refer to the detailed listing of land uses contained in Section 23.206 (Detailed Land Use Descriptions and Regulations).
- (2) **Land Uses Permitted by Right:** Land uses listed as permitted by right (designated as a "P" in Sections 23.203 and 23.204) are permitted per the general land use requirements of this Title (Section 23.205); per the general requirements of the specific zoning district in which they are located; per any additional requirements imposed by applicable overlay zoning districts as designated on the Official Zoning Map; per the general requirements of this Title including Section 24.908; and per any and all other applicable City, County, State, and Federal regulations.
- (3) **Land Uses Permitted as a Special Use:** This category of land uses is subject to certain additional controls than apply to land uses permitted by right, while avoiding the public hearing process required of land uses permitted as conditional uses.
 - (a) Land uses listed as permitted as a special use (designated as an "S" in Sections 23.203 and 23.204) are permitted subject to all of the general zoning requirements applicable to land uses permitted by right (Subsection (2), above), plus certain additional requirements applicable to that particular land use specified in Section 23.206. (See also Section 24.904.)
 - (b) If a proposed land use, listed as a special use, cannot meet one of the special use requirements of Section 23.206 for reasons directly related to the nature of the subject property, the Petitioner of said land use may request Plan Commission and Common Council review for approval as a conditional use, per the requirements of Section 24.905. No more than one special use requirement shall be waived in this manner for any given land use or property. See Subsection (4)(b), below.
- (4) **Land Uses Permitted as a Conditional Use:**
 - (a) Land uses listed as permitted as a conditional use (designated as a "C" in Sections 23.203 and 23.204) are permitted subject to all the requirements applicable to uses permitted by right as listed in Subsection (2), above, plus any additional requirements applicable to that particular land use as contained in Section 23.206 (Detailed Land Use Descriptions and Regulations), including any additional requirements imposed as

part of the conditional use review process. Each application for, and instance of, a conditional use shall be considered a unique situation and shall not be construed as precedence for similar requests. (See also Section 24.905.)

(b) Conditional use requirements also apply to proposed special uses when one of the special use requirements cannot be met. (See Subsection (3)(b), above.) No more than one special use requirement shall be waived in this manner.

(5) Land Uses Permitted as an Accessory Use:

Land uses permitted as an accessory use are permitted subject to all the requirements applicable to uses permitted by right as listed in Subsection (2), above, plus any additional requirements applicable to that particular land use as contained in Section 23.206 (Detailed Land Use Descriptions and Regulations).

(6) Land Uses Permitted as a Temporary Use:

Land uses listed as permitted as a temporary use (designated as a "T" in Sections 23.203 and 23.204) are permitted subject to all the requirements applicable to uses permitted by right as listed in Subsection (2), above, plus any additional requirements applicable to that particular land use as contained in Section 23.206(9) (Detailed Land Use Descriptions and Regulations). (See also Section 24.906.)

(7) Land uses for which a blank space is shown for a specific zoning district are not permitted in such zoning district, except as legal nonconforming uses (see Section 23.207).

(8) Although a land use may be indicated as permitted by right, permitted as a special use, or permitted as a conditional use in a particular district, it does not follow that such a land use is permitted or permissible on every parcel in such district. No land use is permitted or permissible on a parcel unless it can be located thereon in full compliance with all of the standards and regulations of this Title which are applicable to the specific land use and parcel in question, or unless an appropriate variance has been granted pursuant to Section 24.910.

Section 23.203 Tables of Land Uses

This Title regulates the location of land uses to specific zoning districts through the use of the Tables of Land Uses contained in this Section. (See the following pages for these Tables.)

TABLE 23.203(1) TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) **S**=Permitted as a Special Use (23.202(3)) **C**=Permitted as a Conditional Use (23.202(4))

Note: Residential development options vary by zoning district. See Subchapter 22-1 for district standards and Section 23.206(1)(a)-(i) for development options regulations.

ZONING DISTRICT ABBREVIATIONS																	TYPE OF LAND USE				
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG	MH	I	IR	PR			
																					DWELLING UNIT TYPES (See 23.403(_))
P	P	P	P	P	P																(1) Single-Family Detached 35 ac lot
	P	P	P	P	P																(2) Single-Family Detached 175,000 sf lot
	C	P	P	P	P																(3) Single-Family Detached 130,000 sf lot
	C	P	P	P	P																(4) Single-Family Detached 80,000 sf lot
	C	P	P	P	P																(5) Single-Family Detached 40,000 sf lot
		P	P	P	P																(6) Single-Family Detached 30,000 sf lot
		P	P	P	P																(7) Single-Family Detached 20,000 sf lot
		C	P	P	C																(8) Single-Family Detached 10,500 sf lot
			C	P	C		P		C				C								(9) Single-Family Detached 8,000 sf lot
					P		C						C								(10) Duplex 5,000 sf (per du)
				C	C	C	C														(11) Two-Flat 4,000 sf (per du)
					C	S	C						C								(12) Townhouse 2,400 sf lot
					C	C	C						C								(13) Multiplex 2,000 sf (per du)
					C		C														(14) Apartment 1,400 sf (per du)
					C		C	C		C	C	C				C	C				(15) Institutional Res. 800 sf (per du)
					C																(16) Mobile Home 5,000 sf lot

RH-35ac Rural Holding
 RE-5ac Residential Estate
 RS-2 Residential Single-family-2
 RS-3 Residential Single-family-3
 I Institutional

RS-5 Residential Single-family-5
 RM-8 Residential Mixed
 RM-12 Residential Multi-family
 ON Office Neighborhood
 IR Institutional Residential

OP Office Park
 BN Business Neighborhood
 BR Business Regional
 BL Business Local
 PR Park and Recreation

BC Business Central
 ML Manufacturing Light
 MG Manufacturing General
 MH Manufacturing Heavy

TABLE 23.203(2) and (3): TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) S=Permitted as a Special Use (23.202(3)) C=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS																TYPE OF LAND USE				
R H - 3 5	R E - 5	R S - 2	R S - 3	R S - 5	R M - 8	R M - 1 2	O N	O P	B N	B R	B L	B C	M L	M G	M H	I	I R	P R		
																				NONRESIDENTIAL LAND USES
																				AGRICULTURAL USES (23.206(2)(_))
P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	(a) Cultivation
C																				(b) Husbandry
C																				(c) Intensive Agriculture
C																		C		(d) Agricultural Service
S																				(e) On-Site Agricultural Retail
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(f) Selective Cutting
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	(g) Clear Cutting
																				INSTITUTIONAL USES (23.206(3)(_))
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(a) Passive Outdoor Public Recreational
S	S	S	S	S	S	S	S	S	S	S	S	S	S							(b) Active Outdoor Public Recreational
C	C	C	C	C	C	C	C	C	C	C	C	C	C							(c) Indoor Institutional
C	C	C	C	C	C	C	C	C	C	C	C	C	C							(d) Outdoor Institutional
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	(e) Public Service and Utilities
						C	C	C		C	C	C								(f) Institutional Residential
S	S	S	S	S	S	S						C								(g) Community Living Arrangement (1-8 res.)
	C	C	C	C	S	S	C	C		C	C	C								(h) Community Living Arrangement (9-15)
						C	C	C		C	C	C								(i) Community Living Arrangement (16+)

RH-35ac Rural Holding
 RE-5ac Residential Estate
 RS-2 Residential Single-family-2
 RS-3 Residential Single-family-3
 I Institutional

RS-5 Residential Single-family-5
 RM-8 Residential Mixed
 RM-12 Residential Multi-family
 ON Office Neighborhood
 IR Institutional Residential

OP Office Park
 BN Business Neighborhood
 BR Business Regional
 BL Business Local
 PR Park and Recreation

BC Business Central
 ML Manufacturing Light
 MG Manufacturing General
 MH Manufacturing Heavy

TABLE 23.203(4): TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) **S**=Permitted as a Special Use (23.202(3)) **C**=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS															TYPE OF LAND USE						
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG				MH	IR	PR	
																			COMMERCIAL USES (23.206(4)(_))		
								P	P	P	C	P	C	P	P	P			(a) Office		
								P	P	P	C	P	P	C					(b) Personal or Professional Service		
								C	C	C	C	P	P	C					(c) Indoor Sales or Service		
											C	C					C		(d) Outdoor Display		
										P	C	P	P	P	P	P			(e) Indoor Maintenance Service		
																	C		(f) Outdoor Maintenance Service		
								C	C	C	C	C	C	C					(g) In-Vehicle Sales or Service		
								C	C	C	C	C	C	C					(h) Indoor Commercial Entertainment		
S								S	S	S	S	S	S						(i) Minor Outdoor Commercial Entertainment		
C								C	C	C	C	C	S						(ii) Major Outdoor Commercial Entertainment		
C											C	C							(j) Commercial Animal Boarding		
								C	C		C	C	C	C					(k) Commercial Indoor Lodging		
C	C	C	C	C	C	C		C		C	C	C	C						(l) Bed and Breakfast Establishment		
					C	C		C	C	C	C	C	C	C		C	C		(m) Group Day Care Center (9+ children)		
C																			(n) Campground		
						C													(o) Boarding House		
																	C		(p) Sexually-Oriented Land Uses		

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 RM-12 Residential Multi-family
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 MH Manufacturing Heavy

TABLE 23.203(5), (6), and (7): TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) **S**=Permitted as a Special Use (23.202(3)) **C**=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS															TYPE OF LAND USE				
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG				MH	IR
																			STORAGE/DISPOSAL (23.206(5)(_))
														P	P	P			(a) Indoor Storage or Wholesaling
														C	C	C			(b) Outdoor Storage or Wholesaling
											C		C	C					(c) Personal Storage Facility
C																	C		(d) Junkyard or Salvage Yard
C																	C		(e) Waste Disposal Facility
C																	C		(f) Composting Operation
															C	C			(g) Recycling and Related Activities (RC-331, 5/14/13)
																			TRANSPORTATION USES (23.206(6)(_))
											S	S			S	S			(a) Off-Site Parking Lot
C								C						C	C	C			(b) Airport/Heliport
																	C		(c) Freight Terminal
														C	C	C			(d) Distribution Center (RC-364, 4/12/16)
																			INDUSTRIAL USES (23.206(7)(_))
														S	S	C			(a) Light Industrial
																	S		(b) Manufacturing Heavy
C														C	C	C			(c) Communication Tower
C																			(d) Extraction Use

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 RM-12 Residential Multi-family
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TABLE 23.203(8): TABLES OF LAND USES (RC-319, 6/12/12)

P=Permitted by Right (23.202(2)) **S**=Permitted as a Special Use (23.202(3)) **C**=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS																TYPE OF LAND USE			
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG	MH	IR	PR		
																			ACCESSORY USES (23.206(8)(_))
								C		C	C	C	C						(a) Commercial Apartment
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	(b) On-Site Parking Lot
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		(c) Farm Residence
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		(d) Detached Private Residential Garage, Carport, or Utility Shed
P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S		(e) Private Residential Recreational Facility
S	C	C																	(f) Private Residential Kennel
S	C																		(g) Private Residential Stable
								P	P		P	P	P	P	P	P	P		(h) Company Cafeteria
								S	S		S	S	S	S	S	S	S		(i) Company Provided On-Site Recreation
								C	C		C	C	C	C	C	C	C		(j) Outdoor Display Incidental
								C	C	C	C	C	C						(k) In-Vehicle Sales and Services
													S	S	S				(l) Indoor Sales Incident to Light Ind. Use
										C	C	C	C						(m) Light Ind. Incidental to Indoor Sales
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	(n) Drainage Structure (See 23.204 also)
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	(o) Filling (See 23.204 also)
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		(p) Lawn Care (See 23.204 also)
C																			(q) Septic Systems (See 23.204 also)
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	(r) Exterior Communication Devices
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		(s) Home Occupation
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	(t) On-Site Composting and Wood Piles
P	P	P	P	P	P	P													(u) Family Day Care Home
C																			(v) Migrant Labor Camp

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 RM-12 Residential Multi-family
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TABLE 23.203(9): TABLES OF LAND USES (RC-319, 6/12/12)

T = Permitted as a Temporary Use (23.202(6)) C=Permitted as a Conditional Use (23.202(4))

ZONING DISTRICT ABBREVIATIONS														TYPE OF LAND USE					
RH-35	RE-5	RS-2	RS-3	RS-5	RM-8	RM-12	ON	OP	BN	BR	BL	BC	ML	MG	MH	IR	PR		
																			TEMPORARY USES (23.206(9)(_))
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		(a) Contractor's Project Office
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		(b) Contractor's On-Site Equipment Storage Facility
							T	T	T	T	T	T	T	T	T				(c) Relocatable Building
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T				(d) On-Site Real Estate Sales Office
									T	T	T	T	T						(e) General Temporary Outdoor Sales
T									T	T	T	T	T						(f) Seasonal Outdoor Sales of Farm Products
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		(g) Outdoor Assembly
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		(h) Limited Duration Special Activities and Events

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 RE-5ac Residential Estate
 RS-2 Residential Single-family-2
 RS-3 Residential Single-family-3
 I Institutional

RS-5 Residential Single-family-5
 RM-8 Residential Mixed
 RM-12 Residential Multi-family
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Section 23.204 Table of Land Uses Permitted in Permanently Protected Green Space Areas

In all developments, certain areas may be required to be set aside as permanently protected green space for the purpose of natural resources protection, to meet a Minimum Green Space Ratio (GSR) requirement, or to meet a Minimum Landscape Surface Ratio (LSR) requirement (see Subchapter 23-3, Density and Intensity Regulations and Subchapter 23-5, Natural Resource Protection Regulations). Where such permanently protected green space is required, and where the land use is also permitted per the land use regulations of the applicable conventional zoning district (see Section 23.203, Table of Land Uses), the following table shall also be employed to establish land use regulations. All land uses listed in Section 23.203 but not listed in this Section are prohibited directly within permanently protected green spaces. Within cluster developments permanently protected green space areas shall be used to protect the site features listed in Table 23.204.

(Table 23.204 is presented on the following page.)

TABLE 23.204: LAND USES PERMITTED IN PERMANENTLY PROTECTED GREEN SPACE AREAS

LAND USE 9	PERMANENTLY PROTECTED GREEN SPACE AREAS								
	FLOODWAY	FLOODPLAIN CONSERVANCY	FLOODWAY FRINGE	SHORELAND - WETLAND	DRAINAGEWAY	LAKESHORE	WOODLAND	STEEP SLOPE	OTHER PERMANENTLY PROTECTED GREEN SPACE
(a) Cultivation									C
(b) Passive Outdoor Recreational					S	S	S	S	S
(c) Active Outdoor Recreational									S
(d) Outdoor Institutional									S
(e) Lawn Care (mow-feed-seed-weed)					C	C	C	C	S
(f) Golf Course					C	C	C	C	C
(g) Any Permitted Temporary Use									S,T
(h) Drainage Structure					C	C	C	C	C
(i) Filling					C	C	C	C	C
(j) Road, Bridge					C	C	C	C	C
(k) Utility Lines & Related Facilities					C	C	C	C	C
Refer to Sections 23.503 and 23.504 for detailed land use regulations pertaining to these Overlay Zoning Districts									
S: Permitted as a Special Use per 23.206(10), 23.203, 23.501-.40, and 24.904. C: Permitted as a Conditional Use per 23.206(10), 23.203, 23.501-.510 and 24.905. T: Permitted as a Temporary Use per 23.206(10), 23.203, 23.501-.510, and 24.906.									

Section 23.205 Regulations Applicable to All Land Uses

All uses of land initiated within the jurisdiction of this Title on, or following, the effective date of this Title shall comply with all of the provisions of this Title. Specifically:

(1) **Land Use Regulations and Requirements**

Uses of land shall comply with all the regulations and requirements of Subchapter 23-2 pertaining to the types of uses to which land may be put, and to various requirements which must be met for certain types of land uses within particular zoning districts. Such regulations and requirements address both general and specific regulations which land uses shall adhere to; and which are directly related to the protection of the health, safety and general welfare of the residents of the City of Delavan and its environs.

(2) **Density and Intensity Regulations and Requirements**

Development of land shall comply with all the regulations and requirements of Subchapter 23-3, pertaining to the maximum permitted density (for residential land uses) and intensity (for nonresidential land uses) of land uses. Such regulations and requirements address issues such as Floor Area Ratios (FARs), Green Space Ratios (GSRs), and Landscape Surface Ratios (LSRs); which are directly related to, and are a critical component of, density or intensity and the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.

(3) **Bulk Regulations and Requirements**

Development of land shall comply with all the regulations and requirements of Subchapter 23-4, pertaining to the maximum permitted bulk of structures and the location of structures on a lot. Such regulations and requirements address issues such as height, setbacks from property lines and rights-of-way, and minimum separation between structures; which are directly related to, and a critical component of, the effective bulk of a structure and the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.

(4) **Natural Resources and Green Space Regulations and Requirements**

Land use and/or development of land shall comply with all the regulations and requirements of Subchapter 23-5, pertaining to the protection of sensitive natural resources and required green space areas. Such regulations and requirements address issues such as absolute protection, partial protection, and mitigation; which are directly related to, and a critical component of, the protection of natural resources and the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.

(5) **Landscaping and Bufferyards Regulations and Requirements**

Development of land shall comply with all the regulations and requirements of Subchapter 23-6, pertaining to the provision of landscaping and bufferyards. Such regulations and requirements address issues such as minimum required landscaping of developed land, and minimum required provision of bufferyards between adjoining zoning districts and/or development options; which are directly related to, and a critical component of, the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.

- (6) **Performance Standards and Requirements**
 Development of land shall comply with all the regulations and requirements of Subchapter 23-7, pertaining to the provision of appropriate access, parking, loading, storage, and lighting facilities. Such regulations and requirements address issues such as maximum permitted access points, minimum required parking spaces, the screening of storage areas, and maximum permitted intensity of lighting, as well as defining acceptable levels of potential nuisances such as noise, vibration, odors, heat, glare and smoke; which are directly related to, and a critical component of, the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.
- (7) **Signage Regulations and Requirements**
 Land use and/or development of land shall comply with all the regulations and requirements of Subchapter 23-8, pertaining to the type and amount of signage permitted on property. Such regulations and restrictions address issues such as the maximum area of permitted signage and the number and types of permitted signage; which are directly related to, and a critical component of, the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs.
- (8) **Procedural Regulations and Requirements**
 Land use and/or development of land shall comply with all the regulations and requirements of Subchapter 24-9, pertaining to the procedures necessary to secure review and approval of land use and/or development. Such regulations and restrictions address both procedural and technical requirements; and are directly related to, and a critical component of, the protection of the health, safety, and general welfare of the residents of the City of Delavan and its environs. At a minimum, all development shall be subject to the requirements of Section 24.908.
- (9) **Number of Buildings Per Lot**
 In the RH-35ac, RE-5ac, RS-2, RS-3, and RS-5 Districts, only 1 principal residential building shall be permitted on any 1 lot. In the RM-8, RM-12, ON, OP, BN, BR, BL, BC, ML, MG, and MH Districts, more than 1 principal building shall be permitted on any 1 lot upon the granting of a conditional use permit for a Group Development in compliance with Section 23.208.
- (10) **Number of Land Uses Per Building**
 (a) No more than 1 nonresidential land use shall be permitted in any building unless a conditional use permit for a Group Development is granted in compliance with Section 23.208.
 (b) With the exceptions of a Commercial Apartment or a Home Occupation, no building containing a nonresidential land use shall contain a residential land use. (See Sections 23.206(8)(a) and 23.206(8)(s).)
- (11) **Division or Combining of a Lot**
 No recorded lot shall be divided into 2 or more lots, and no two or more recorded lots shall be combined into one or more lots, unless such division or combination results in the creation of lots, each of which conforms to all of the applicable regulations of the zoning district in which said lot is located (as set forth in this Title).

Section 23.206 Detailed Land Use Descriptions and Regulations

The land use categories employed by this Title (particularly Sections 23.203 and 23.204) are defined in this Section. Land uses which are not listed in this Title are not necessarily excluded from locating within any given zoning district. Section 24.911 empowers the Zoning Administrator to make interpretations on matters regarding specific land use proposals which are not addressed by this Title.

(1) Residential Land Uses (Development Options)

Specific residential unit types (such as single-family detached house, duplex, apartment, etc.) are defined in Section 23.403 and provides standards for each residential unit.

(a) Conventional Residential Development

Description: This land use includes, but is not limited to, all residential developments which do not provide permanently protected green space areas. Property which is under common ownership of a property owners' association is permitted, but is not a required component of this type of development. Up to 10% of a Conventional Residential Development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (i) below.)

1. Permitted by Right {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON}.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: {ML east of IH 43, south of STH 50 and west of North Shore Drive}. (C-736, 4/8/97)

(b) Equestrian Residential Development

Description: This land use is a form of loose cluster residential development, (see (b)3., below), which permits the keeping of horses on private lots or on common green space. A minimum of 15% of the development's Gross Site Area (GSA) shall be held under common ownership by a homeowners' association. This commonly-held area shall be used to provide equestrian facilities which are available to all residents of the development. These facilities may include common pasture area, group stables, riding trails, training areas, or other land uses typically associated with equestrian activities (including kennel facilities for private, non-commercial hunt club operations). With the exception of riding trails, (which may be linked to a general trail network extending beyond the area of the equestrian development) such areas shall only be used by the residents of the Equestrian Residential Development and their guests, and no facilities within an equestrian development shall be operated as a for-profit commercial venture. Up to 25% of an Equestrian Residential Development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space area (per Section 23.304)), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RE-5ac}:
 - a. A minimum of 15% of the Gross Site Area (GSA) of the development shall be held in common ownership by a homeowner's association and shall be devoted to equestrian facilities.

- b. Each lot shall have direct access to an equestrian trail maintained by a homeowner's association.
- c. Any stable facility shall be reserved for the exclusive use of the development's residents. No stable located within an Equestrian Residential Development shall be operated as a for-profit commercial venture.
- d. All stables located on individual lots shall conform to the standards of Section 23.206(8)(g).
- e. All stables serving the Equestrian Residential Development as a whole shall conform to the standards of Section 23.206(4)(k).
- f. Applicant shall provide appropriate deed restrictions and performance bonds to ensure the long-term maintenance and viability of common areas and the development as a whole.
- g. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(c) **Loose Cluster Development**

Description: This land use is a residential subdivision which requires that a minimum of 15% of the development's Gross Site Area (GSA) be protected as permanently protected green space (per Section 23.304). This form of development permits slightly higher Maximum Gross Densities (MGDs), and dwelling unit types which require slightly smaller lots, than Conventional Residential Developments within the same zoning district. This density incentive is provided because the provision of the required common green space balances with the density increase to result in a community character which is consistent with such Conventional Residential Developments. Up to 25% of a Loose Cluster Development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space area), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {RE-5ac}:
 - a. Development clusters shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. If such adjacent areas are developed as a Conventional Residential Development, bufferyards shall be provided within adjoining portions of the Loose Cluster Residential Development (see Section 23.610).
 - c. Applicant shall provide appropriate deed restrictions and performance bonds to ensure the long-term maintenance and viability of common areas and the development as a whole.
 - d. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(d) **Moderate Cluster Development**

Description: This land use is a residential subdivision which requires that a minimum of 30% of the development's Gross Site Area (GSA) be protected as permanently protected green space (per Section 23.304). This form of development permits higher Maximum Gross Densities (MGDs), and dwelling unit types which require smaller lots, than Conventional Residential Developments within the same zoning district. This

density incentive is provided because the provision of the required common green space balances with the density increase to result in a community character which is consistent with such Conventional Residential Developments. Up to 50% of a Moderate Cluster Development's Gross Site Area (GSA) can contain natural resource areas which must be protected, (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RE-5ac, RS-3, RM-8, RM-12}:
 - a. Development clusters shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. If such adjacent areas are developed as a Conventional or Loose Cluster Residential Development, bufferyards shall be provided within adjoining portions of Moderate Cluster Residential Development (see Section 23.610).
 - c. Applicant shall provide appropriate deed restrictions and performance bonds to ensure the long-term maintenance and viability of common areas and the development as a whole.
 - d. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(e) **Compact Cluster Development**

Description: This land use is a residential subdivision which requires that a minimum of 50% of the development's Gross Site Area (GSA) be protected as permanently protected green space (per Section 23.304). This form of development permits substantially higher Maximum Gross Densities (MGDs), and dwelling unit types which require substantially smaller lots, than Conventional Residential Developments within the same zoning district. This density incentive is provided because the provision of the required common green space balances with the density increase to result in a community character which is consistent with such conventional residential developments. Up to 70% of a Compact Cluster Development's Gross Site Area (GSA) can contain natural resource areas which must be protected, (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RE-5ac, RS-2, RM-8, RM-12}:
 - a. Development clusters shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. If such adjacent areas are developed as a Conventional, Loose, or Moderate Cluster Residential Development, bufferyards shall be provided within adjoining portions of the Compact Cluster Residential Development (see Section 23.610).
 - c. Applicant shall provide appropriate deed restrictions and performance bonds to ensure the long-term maintenance and viability of common areas and the development as a whole.
 - d. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(f) Institutional Residential Development

Description: This land use is a form of Moderate Cluster Residential development designed to accommodate institutional residential land uses, such as retirement homes, nursing homes, convents, and dormitories (see Section 23.206(3)(f)). No individual lots are required, although the development shall contain a minimum of 800 square feet of gross site area for each occupant of the development. A minimum of 30% of the development's Gross Site Area (GSA) shall be held as permanently protected green space. (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-12, ON, OP, BR, BL, BC}:
 - a. The proposed site shall be located so as to avoid disruption of an established or developing office area. Within the Office Neighborhood (ON) and Office Park (OP) District, institutional residential developments shall be designed so as to maintain the character of the adjacent properties.
 - b. Shall be located with primary vehicular access on a collector or arterial street.
 - c. No access shall be permitted to a local residential street.
 - d. Applicant shall provide off-street passenger loading area at a minimum of one location within the development.
 - e. All structures shall be located a minimum of 50 feet from any residentially zoned property which does not contain an institutional residential land use.
 - f. Applicant shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(g) Mobile Home Residential Development (Subdivision)

Description: This land use is a form of conventional residential development which is exclusively reserved for individually sold lots containing mobile home units. Each of the lots and mobile home units must meet the requirements for mobile homes listed in Section 23.403(22) of this Title. Under this development option, approximately 10% of a development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-8}:
 - a. Development shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. Mobile Home Residential Developments shall comply with the same landscaping and bufferyard requirements as apartments and Compact Cluster Developments, as specified in Section 23.610 of this Title.
 - c. No access shall be permitted to local residential streets.
 - d. Shall comply with Section 24.905, applicable to all conditional uses.

(h) Mobile Home Park Residential Development (Rental/Condo Park)

Description: This land use is a form of conventional residential development which is exclusively reserved for individually sold or rented air right pads containing mobile home units. Each of the mobile home units must meet the requirements for mobile

homes listed in Section 23.403(22) of this Title. Under this development option, approximately 10% of a development's Gross Site Area (GSA) can contain natural resource areas which must be protected (or other permanently protected green space areas), without a reduction in Maximum Gross Density (MGD). (See note (1)(i) below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-8}:
 - a. Development shall be located so as to blend with adjacent residentially zoned areas to the greatest extent possible.
 - b. Mobile Home Park Residential Developments shall comply with the same landscaping and bufferyard requirements as apartments and Compact Cluster Developments, as specified in Section 23.610 of this Title.
 - c. No access shall be permitted to local residential streets.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(i) **Note Regarding Percentage of Green Space and Maximum Density Yield**

This estimate is provided as a general rule of thumb for the convenience of the users of this Title. Such a yield is not to be considered as ensured by the provisions of this Title.

(2) **Agricultural Land Uses**

(a) **Cultivation**

Description: Cultivation land uses include all operations primarily oriented to the on-site, outdoor raising of plants. This land use includes trees which are raised as a crop to be replaced with more trees after harvesting, such as in nursery or Christmas tree operations. The raising of plants for consumption by farm animals is considered cultivation if said plants are consumed by animals which are located off-site.

1. Permitted by Right: {RH-35ac}.
2. Special Use Regulations {All Districts except RH-35ac}:
 - a. On buildable lots, cultivation areas shall not exceed 20% of the lot's area.
 - b. Cultivation areas shall not be located within the required front yard or street yard of any buildable or developed lot.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(b) **Husbandry**

Description: Husbandry land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity of less than 1 animal unit (as defined in Section 21.034) per acre. Apiaries are prohibited in the City of Delavan.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.

3. Conditional Use Regulations {RH-35ac}:
 - a. Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property, and 100 feet from all other lot lines.
 - b. All outdoor animal containments (pasture) shall be located a minimum of 10 feet from any residentially zoned property.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(c) Intensive Agriculture

Description: Intensive agricultural land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity equal to or exceeding 1 animal unit (as defined in Section 21.034) per acre and/or agricultural activities requiring large investments in structures. Examples of such land uses include feed lots, hog farms, poultry operations, fish farms, commercial greenhouse operations and certain other operations meeting this criterion.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac}:
 - a. Shall not be located in, or adjacent to, an existing or platted residential subdivision.
 - b. Shall be completely surrounded by a bufferyard with a minimum intensity of 1.00. (See Section 23.610.)
 - c. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 300 feet from all residentially zoned property and 100 feet from all other lot lines.
 - d. Shall be located in an area which is planned to remain commercially viable for agricultural land uses.
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(d) Agricultural Service

Description: Agricultural service land uses include all operations pertaining to the sale, handling, transport, packaging, storage, or disposal of agricultural equipment, products, by-products, or materials primarily used by agricultural operations. Examples of such land uses include agricultural implement sales, storage, or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; commercial dairies; food processing facilities; canning and other packaging facilities; and agricultural waste disposal facilities (except commercial composting uses, see Section 23.206(5)(f)).

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, MH}:

- a. Shall not be located in, or adjacent to, an existing or platted residential subdivision.
- b. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 100 feet from all lot lines.
- c. If within the RH-35ac District, shall be located in an area which is planned to remain commercially viable for agricultural land uses.
- d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(e) **On-Site Agricultural Retail**

Description: On-site agricultural retail land uses include land uses solely associated with the sale of agricultural products grown exclusively on the site. The sale of products grown or otherwise produced off-site shall not be permitted within on-site agricultural retail operations and such activity constitutes retail sales as a commercial land use. Packaging and equipment used to store, display, package or carry products for the convenience of the operation or its customers (such as egg cartons, baskets, containers, and bags) shall be produced off-site.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RH-35ac}:
 - a. No structure or group of structures shall exceed 500 square feet in floor area.
 - b. No structure shall exceed 12 feet in height.
 - c. All structures shall meet all required setbacks for nonresidential land uses. (See Section 23.404.)
 - d. Signage shall be limited to 1 on-site sign which shall not exceed 30 square feet in area.
 - e. Such land use shall be served by no more than 1 driveway. Said driveway shall require a valid driveway permit.
 - f. A minimum of one parking space shall be required for every 200 square feet of product display area.
 - g. The sale of products which are grown or otherwise produced on non-adjacent property under the same ownership, or on property under different ownership, shall be prohibited.
 - h. Said structure and fencing shall be located a minimum of 300 feet from any residentially zoned property.
 - i. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.
4. Parking Regulations: One space per employee on the largest work shift. (Note: Agricultural land uses are hereby made exempt from the surfacing requirements of Section 23.704(6)(a).)

(f) **Selective Cutting**

Description: Selective cutting land uses include any operation associated with the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction of trees (including by fire) where the extent of such activity is limited to an area (or

combined areas) of less than or equal to 40% of the woodlands on the property (or up to 100% for developments approved prior to the effective date of this Ordinance). Selective cutting activity shall be limited to areas located within development pads which are designated on recorded Plats or Certified Survey Maps (see Section 23.510). The destruction of trees in an area in excess of this amount of the woodlands on the property shall be considered clear cutting, (see (g), below).

1. Permitted by Right {All Districts}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: Not applicable.

(g) Clear Cutting

Description: Clear cutting land uses include the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction (including by fire) of trees in an area (or combined areas) of more than 40% of the woodlands on a property (or up to 100% for developments approved prior to the effective date of this Ordinance). Clear cutting is permitted only as a conditional use within the jurisdiction of this Title. Areas which have been clear cut as a result of intentional action following the effective date of this Title without the granting of a conditional use permit are in violation of this Title and the property owner shall be fined for such violation and shall be required to implement the mitigation standards required for the destruction of woodlands solely at his/her expense, including costs associated with site inspection to confirm the satisfaction of mitigation requirements. Areas which have been cut unintentionally as a result of fire shall not subject the owner of the property to fines associated with the violation of this Title, but shall require the satisfaction of mitigation requirements at the owner's expense, including cost associated with site inspection to confirm the satisfaction of mitigation requirements. (See Section 23.608.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {All Districts}:
 - a. Applicant shall demonstrate that clear cutting will improve the level of environmental protection on the subject property.
 - b. Areas of the subject property which are clear cut beyond the limitations established above, shall be replanted per the requirements of Section 23.507. (Referenced section requires the replanting of trees in other portions of the subject property--thereby freeing the currently wooded area for development while ensuring that the amount of required wooded area on the subject property remains constant.)
 - c. Clear cutting shall not be permitted within a required bufferyard or landscaped area (see Section 23.610), or within an area designated as permanently protected green space (see Subchapter 23-6).
 - d. Shall comply with Section 24.905, applicable to all conditional uses.

(3) Institutional Land Uses

(a) **Passive Outdoor Public Recreational**

Description: Passive outdoor public recreational land uses include all recreational land uses located on public property which involve passive recreational activities. Such land uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, cross country ski trails, open grassed areas not associated with any particular active recreational land use (see (b), below), picnic areas, picnic shelters, gardens, fishing areas, and similar land uses. Passive Recreation shall also include Public Art as defined in Section 21.034. (RC-345, 9/9/14)

1. Permitted by Right {All Districts}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: Not applicable.
4. Parking Requirements: One space per four expected patrons at maximum capacity for any use requiring over five spaces.

(b) **Active Outdoor Public Recreational**

Description: Active outdoor public recreational land uses include all recreational land uses located on public property which involve active recreational activities. Such land uses include playcourts (such as tennis courts and basketball courts), playfields (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, public golf courses, and similar land uses.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON, OP, BN, BR, BL, BC, ML, I (RC-80,11/9/99), IR (RC-80,11/9/99), PR (RC-80,11/9/99)}:
 - a. Facilities using night lighting and adjoining a residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity of 0.60 (see Section 23.610). Said bufferyard shall be located at the property line adjacent to said residentially zoned property.
 - b. All structures and active recreational areas shall be located a minimum of 50 feet from any residentially zoned property.
 - c. Facilities which serve a community-wide function shall be located with primary vehicular access on a collector or arterial street.
 - d. Facilities which serve a regional or community-wide function shall provide off-street passenger loading area if the majority of the users will be children.
 - e. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON, OP, BN, BR, BL, BC, ML}:
 - a. Conditional use regulations shall apply to horse trail facilities.
 - b. Shall comply with Section 24.905, procedures applicable to all conditional uses.
4. Parking Regulations: Active Outdoor Public Recreation: one space per four expected patrons at maximum capacity for any use requiring over five spaces.

(c) **Indoor Institutional**

Description: Indoor institutional land uses include all indoor public and not for profit recreational facilities (such as gyms, swimming pools, libraries, museums, and community centers), schools, churches, nonprofit clubs, nonprofit fraternal

organizations, convention centers, hospitals, jails, prisons, and similar land uses.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable. (RC-319, 6/12/12)
3. Conditional Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, I (RC-80, 11/9/99) BR, ON, OP, BN, BL, BC, ML, IR, PR} (RC-319, 6/12/12):
 - a. Shall provide off-street passenger loading area if the majority of the users will be children (as in the case of a school, church, library, or similar land use.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all special uses.
4. Parking Regulations: Generally, one space per three expected patrons at maximum capacity. However, see additional specific requirements below:
 - Church:** one space per five seats at the maximum capacity.
 - Community or Recreation Center:** One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.
 - Funeral Home:** one space per three patron seats at the maximum capacity, plus one space per employee on the largest work shift.
 - Hospital:** two spaces per three patient beds, plus one space per staff doctor and each other employee on the largest work shift.
 - Library or Museum:** one space per 250 square feet of gross floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.
 - Elementary and Junior High:** one space per teacher and per staff member, plus one space per two classrooms.
 - Senior High:** one space per teacher and staff member, plus one space per five non-bused students.
 - College or Trade School:** one space per staff member on the largest work shift, plus one space per two students of the largest class attendance period.

(d) **Outdoor Institutional**

Description: Outdoor institutional land uses include public and private cemeteries, privately held permanently protected green space areas, country clubs, non-public golf courses, and similar land uses.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {All Districts except MG and MH):
 - a. Shall be located with primary vehicular access on a collector or arterial street.
 - b. Shall provide off-street passenger loading area if a significant proportion of the users will be children.
 - c. All structures and actively used outdoor recreational areas shall be located a minimum of 50 feet from any residentially zoned property.

- d. Facilities using night lighting and adjoining a residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity of 0.60 (see Section 23.610). Said bufferyard shall be located at the property line adjacent to said residentially zoned property.
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: Generally, one space per three expected patrons at maximum capacity. However, see additional specific requirements below:
- Cemetery:** one space per employee, plus one space per three patrons to the maximum capacity of all indoor assembly areas.
 - Golf Course:** 36 spaces per nine holes, plus one space per employee on the largest work shift, plus 50 percent of spaces otherwise required for any accessory uses (e.g., bars, restaurant).
 - Swimming Pool:** one space per 75 square feet of gross water area.
 - Tennis Court:** three spaces per court.

(e) **Public Service and Utilities**

Description: Public service and utilities land uses include all Town, County, State and Federal facilities (except those otherwise treated in this Section), emergency service facilities such as fire departments and rescue operations, wastewater treatment plants, public and/or private utility substations, water towers, utility and public service related distribution facilities, and similar land uses.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations {All Districts}:
 - a. Outdoor storage areas shall be located a minimum of 50 feet from any residentially zoned property.
 - b. All outdoor storage areas adjoining a residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity of .60 (see Section 23.610). Said bufferyard shall be located at the property line adjacent to said residentially zoned property.
 - c. All structures shall be located a minimum of 20 feet from any residentially zoned property.
 - d. The exterior of all buildings shall be compatible with the exteriors of surrounding buildings.
 - e. Shall comply with Section 24.904, procedures applicable to all special uses.
- 3. Conditional Use Regulations: Not applicable.
- 4. Parking Regulations: One space per employee on the largest work shift, plus one space per company vehicle normally stored or parked on the premises, plus one space per 500 square feet of gross square feet of office area.

(f) **Institutional Residential**

Description: Institutional residential land uses include group homes, convents, monasteries, nursing homes, convalescent homes, limited care facilities, rehabilitation centers, and similar land uses not considered to be community living arrangements under the provisions of Wisconsin Statutes 62.23.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.

3. Conditional Use Regulations {RM-12, ON, OP, BR, BL, BC, IR (RC-80, 11/9/99), I (RC-319, 6/12/12)}: See listing for Institutional Residential under Residential Uses, Subsection (1)(f), above.
4. Parking Regulations:
 - Monastery or Convent:** one space per six residents, plus one space per employee on the largest work shift, plus one space per five chapel seats if the public may attend.
 - Nursing Home:** one space per six patient beds, plus one space per employee on the largest work shift, plus one space per staff member and per visiting doctor.

(g) **Community Living Arrangement (1-8 residents)**

Description: Community living arrangement land uses include all facilities provided for in Wisconsin Statutes 46.03(22), including child welfare agencies, group homes for children, and community based residential facilities. Community living arrangements do not include day care centers (see separate listing); nursing homes (an institutional residential land use); general hospitals, special hospitals, prisons, or jails (all indoor institutional land uses). Community living arrangement facilities are regulated depending upon their capacity as provided for in Wisconsin Statutes 62.23.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, IR (RC-80, 11/9/99)}:
 - a. No community living arrangement shall be established within 2,500 feet of any other such facility regardless of its capacity.
 - b. The total capacity of all community living arrangements (of all capacities) in the City shall not exceed 1 percent of the City's population (unless specifically authorized by the Common Council following a public hearing).
 - c. Foster homes housing 4 or fewer children and licensed under Wisconsin Statutes 48.62 shall not be subject to a., above; and shall not be subject to, or count toward, the total arrived at in b., above.
 - d. Shall comply with Section 24.904, procedures applicable to all special uses.
State Law Reference: Section 62.23, Wisconsin Statutes
3. Conditional Use Regulations: {BC, I (RC-319, 6/12/12)}.
4. Parking Regulations: Three spaces.

(h) **Community Living Arrangement (9-15 residents)**

Description: See (g), above.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RM-8, RM-12, IR (RC-80, 11/9/99)}:
 - a. No community living arrangement shall be established within 2,500 feet of any other such facility, regardless of capacity.
 - b. The total capacity of all community living arrangements (of all capacities) in the City shall not exceed 1 percent of the City's population (unless specifically authorized by the Common Council following a public hearing).
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
State Law Reference: Section 62.23, Wisconsin Statutes
3. Conditional Use Regulations {RE-5ac, RS-2, RS-3, RS-5, ON, OP, BR, BL, BC, I (RC-319, 6/12/12)}:
 - a. Shall meet all regulations for special uses in b., above.

- b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- 4. Parking Regulations: Four spaces.

(i) Community Living Arrangement (16+ residents)

Description: See (g), above.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {RM-12, ON, OP, BR, BL, BC, IR (RC-80, 11/9/99), I (RC-319, 6/12/12)}:
 - a. No community living arrangement shall be established within 2,500 feet of any other such facility, regardless of capacity.
 - b. The total capacity of all community living arrangements (of all capacities) in the City shall not exceed 1 percent of the City's population (unless specifically authorized by the Common Council following a public hearing).
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses. *State Law Reference: Section 62.23, Wisconsin Statutes*
- 4. Parking Regulations: One space per three residents.

(4) Commercial Land Uses

(a) Office

Description: Office land uses include all exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide services to customers on a walk-in or on-appointment basis.

- 1. Permitted by Right {ON, OP, BN, BL, ML, MG, MH}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: {BR, BC (RC-319, 6/12/12)}
- 4. Parking Regulations: One space per 300 square feet of gross floor area.

(b) Personal or Professional Service

Description: Personal service and professional service land uses include all exclusively indoor land uses whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include professional services, insurance services, realty offices, financial services, medical offices and clinics, veterinary clinics, barber and beauty shops, and related land uses.

- 1. Permitted by Right {ON, OP, BN, BL, BC}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {ML, BR}:
 - a. Use shall not conflict with existing industrial uses.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses. *State Law Reference: Section 62.23, Wisconsin Statutes*
- 4. Parking Regulations: One space per 300 square feet of gross floor area.

(c) Indoor Sales or Service

Description: Indoor sales and service land uses include all land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building. This includes self-service facilities such as coin-operated laundromats. Depending on the zoning district, such land uses may or may not display products outside of an enclosed building. Such activities are listed as "Outdoor Display Incidental to Indoor Sales" under "Accessory Uses" in the Table of Land Uses, (Section 23.206(8)(j)). A land use which contains both indoor sales and outdoor sales exceeding 15% of the total sales area of the building(s) on the property shall be considered as an outdoor sales land use, (See (d), below.). Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly associated with retail sales are regulated as "light industrial uses incidental to retail sales" (see Section 23.206(8)(m)).

1. Permitted by Right {BL, BC}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ON, OP, ML, BR, BN (RC-319, 6/12/12)}:
 - a. In office districts, permitted uses shall be limited to indoor sales and personal services which primarily support office tenants such as office supply stores, copy centers and travel agencies. In industrial districts, uses shall not conflict with existing industrial uses.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per 300 square feet of gross floor area.

(d) Outdoor Display

Description: Outdoor display land uses include all land uses which conduct sales, display sales or rental merchandise or equipment outside of an enclosed building. Example of such land uses include vehicle sales, vehicle rental, manufactured and mobile housing sales and monument sales. The area of outdoor sales shall be calculated as the area which would be enclosed by a fence installed and continually maintained in the most efficient manner which completely encloses all materials displayed outdoors. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. (See Subsection (5), below, also.) (Land uses which conduct or display only a limited amount of product outside of an enclosed building, are listed in Sections 23.206(8)(j) as "Outdoor Display Incidental to Indoor Sales".)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: {ML} (RC-44, 7/14/98).
3. Conditional Use Regulations {BR, BL, I (RC-319, 6/12/12)}:
 - a. The display of items shall not be permitted in permanently protected green space areas, required landscaped areas, or required bufferyards.
 - b. The display of items shall not be permitted within required setback areas for the principal structure.
 - c. In no event shall the display of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions of Section 23.704. If the number of provided parking stalls on the property is already less than the requirement, such display area shall not further reduce the number of parking stalls already present.

- d. Display areas shall be separated from any vehicular parking or circulation area by a minimum of 10 feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, or line of planters, or by a clearly marked paved area.
 - e. Signs, screenage, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
 - f. Outdoor display shall be permitted during the entire calendar year, however, if goods are removed from the display area all support fixtures used to display the goods shall be removed within 10 calendar days of the goods' removal.
 - g. Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed for this land use.
 - h. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the display area abutting residentially zoned property, except per e., above (See Section 23.610.).
 - i. Shall comply with Section 24.905 regarding conditional uses.
4. Parking Regulations:
- a. In front of required principal building setback: one space per 300 square feet of gross floor area.
 - b. Behind required principal building setback: one space per 300 square feet of gross floor area.

(e) Indoor Maintenance Service

Description: Indoor maintenance services include all land uses which perform maintenance services (including repair) and contain all operations (except loading) entirely within an enclosed building. Because of outdoor vehicle storage requirements, vehicle repair and maintenance is considered an in-vehicle land use. See Section 23.206(4)(g).

- 1. Permitted by Right {BN, BL, BC, ML, MG, MH}
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations: {BR}
- 4. Parking Regulations: One space per 300 square feet of gross floor area.

(f) Outdoor Maintenance Service

Description: Outdoor maintenance services include all land uses which perform maintenance services, including repair, and have all, or any portion, of their operations located outside of an enclosed building.

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {MH}:
 - a. All outdoor activity areas shall be completely enclosed by a minimum 6 feet high fence. Such enclosure shall be located a minimum of 50 feet from any residentially zoned property and shall be screened from such property by a bufferyard with a minimum opacity of .60 (see Section 23.610).
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- 4. Parking Regulations: One space per 300 square feet of gross floor area.

(g) In-Vehicle Sales or Service

Description: In-vehicle sales and service land uses include all land uses which perform sales and/or services to persons in vehicles, or to vehicles which may or may not be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities, vehicular fuel stations, all forms of car washes, and auto repair and maintenance. If performed in conjunction with a principal land use (for example, a convenience store, restaurant or bank), in-vehicle sales and service land uses shall be considered an accessory use (see Section 23.206(8)(k)).

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ON, OP, BN, BR, BL, BC, ML}: (C-736, 4/8/97)
 - a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lane(s).
 - b. The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
 - c. In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this Section.
 - d. The setback of any overhead canopy or similar structure shall be a minimum of 10 feet from all street rights-of-way lines, a minimum of 20 feet from all residentially-zoned property lines, and shall be a minimum of 5 feet from all other property lines. The total height of any overhead canopy of similar structure shall not exceed 20 feet as measured to the highest part of the structure.
 - e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material which is designed to meet the requirements of a minimum 4 ton axle load.
 - f. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (Section 23.610).
 - g. Interior curbs shall be used to separate driving areas from exterior fixtures such as fuel pumps, vacuums, menu boards, canopy supports and landscaped islands. Said curbs shall be a minimum of 6 inches high and be of a non-mountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to all property lines.
 - h. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per 50 square feet of gross floor area where the In-Vehicle land use is a stand-alone principle land use. Where the In-Vehicle land use is an accessory use, the parking requirements of the principle land use shall apply. (RC-198, 3/8/05)

(h) Indoor Commercial Entertainment

Description: Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health

or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ON, OP, BN, BR, BL, BC, ML, MG (RC-319, 6/12/12)}:
 - a. If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of a residentially zoned property.
 - b. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per every three patron seats or lockers (whichever is greater); or one space per three persons at the maximum capacity of the establishment; (whichever is greater).

(i) **Minor Outdoor Commercial Entertainment** (RC-319, 6/12/12)

Description: Minor Outdoor Commercial Entertainment land uses include all land uses which provide entertainment services partially or wholly outside of an enclosed building. Such activities often have the potential to be associated with nuisances related to noise, lighting, dust, trash and late operating hours. Outdoor entertainment land uses may include, but are not limited to, outdoor eating and drinking areas, and outdoor assembly areas.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: {RH-35ac, ON, OP, BN, BR, BL, BC, ML}
 - a. Facility shall provide bufferyard with minimum opacity of .80 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. Activity areas shall be not be visible from any residentially zoned property.
 - c. Shall comply with Section 24.904, standards and procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.
4. Parking Regulations: One space for every three patron seats at the maximum capacity of the establishment.

(ii) **Major Outdoor Commercial Entertainment** (RC-319, 6/12/12)

Description: Land uses, located on public or private property, that require intensive lighting and generate regional traffic and noise beyond property lines. Major Outdoor Commercial Entertainment uses may include, but are not limited to, amusement parks, water parks, fair grounds, outdoor stadiums, drive-in theaters, outdoor commercial swimming pools, driving ranges, miniature golf facilities, go-cart tracks, racetracks, and tournament-oriented athletic facilities.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: {ML}
3. Conditional Use Regulations {RH-35ac, ON, OP, BN, BR, BL, BC}:
 - a. A bufferyard with a minimum opacity of 1.0 shall be provided along all property abutting residentially zoned property and for any facility requiring night lighting.
 - b. Facilities serving a regional or community-wide function shall provided an off-street passenger loading area if the majority of the users will be children.

- c. A minimum of 100 feet setback shall be required to any activity area other than parking.
- 4. Parking Regulations: One space for every four patron seats at the maximum capacity of the establishment.

(j) Commercial Animal Boarding

Description: Commercial animal boarding facility land uses include land uses which provide short-term and/or long-term boarding for animals. Examples of these land uses include commercial kennels and commercial stables. Exercise yards, fields, training areas, and trails associated with such land uses are considered accessory to such land uses and do not require separate consideration. Animal boarding facilities and activities which, except for parking are completely and continuously contained indoors, are subject to a separate set of regulations (see 5., below.).

- 1. Permitted by Right: Not applicable.
- 2. Special Use Regulations: Not applicable.
- 3. Conditional Use Regulations {RH-35ac} and {BR, BL (see below)}:
 - a. A maximum of 1 animal unit per acre of fully enclosed outdoor area (and a maximum of 5 dogs, cats or similar animals) shall be permitted.
 - b. The minimum permitted size of horse or similar animal stall shall be 100 square feet.
 - c. The following setbacks shall be required in addition to those of the zoning district:
 - i. No activity area, including pastures or runs, shall be located closer than 10 feet to any property line.
 - ii. Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property.
 - iii. A vegetative strip at least 100 feet wide shall be maintained between any corral, manure pile, or manure application area and any surface water or well in order to minimize runoff, prevent erosion, and promote nitrogen absorption.
 - d. Special events such as shows, exhibitions, and contests shall only be permitted when a temporary use permit has been secured. (See Section 24.906.)
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- 4. Conditional Use Regulations {BR, BL}:
 - a. All activities, except vehicle parking, shall be completely and continuously contained indoors -- including animal exercising and display areas.
 - b. Subsections 3.b., 3.d., and 3.e., above, shall be complied with.
- 5. Parking Regulations: One space per every 1,000 square feet of gross floor area.

(k) Commercial Indoor Lodging

Description: Commercial Indoor Lodging facilities include land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Typical types of Commercial Indoor Lodging land uses include hotels, motels, inns, hostels, tourist cabins, resorts, timeshare resorts, condo-hotels, residence inns, extended-stay hotels, apartment hotels guest ranches and resort homes. Bed and Breakfast facilities, Campgrounds and Boarding houses are considered as distinct land uses elsewhere in this code. Restaurant, arcades, fitness centers, convention facilities, meeting rooms, rentable banquet halls, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a

separate, principle, land use. Commercial Indoor Lodging land uses are distinguished from Residential land uses by limiting occupancy by any individual or family to no more than 180 days in any period of 365 consecutive days. In instances where occupancy extends to more than 180 days in any period of 365 days, the living unit shall be considered a residential dwelling unit. (RC-199, 3/8/05)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {ON, OP, BR, BL, BC, ML}:
 - a. If located on the same side of a building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of a residentially zoned property.
 - b. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - c. Within the ON and OP District, each and every room must take primary access via an individual interior door, and may not be accessed via an external balcony, porch or deck, except for emergency purposes.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per bedroom, plus one space for each employee on the largest work shift.

(l) **Bed and Breakfast Establishment**

Description: Bed and breakfast establishments are exclusively indoor lodging facilities which provide meals only to paying lodgers. Such land uses may provide indoor recreational facilities for the exclusive use of their customers.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12, ON, BN, BR, BL, BC}:
 - a. All such facilities shall be required to obtain a permit to serve food and beverages. They shall be inspected annually at a fee as established by a separate ordinance, to verify that the land use continues to meet all applicable regulations.
 - b. 1 sign, with a maximum area of 20 square feet, shall be permitted on the property.
 - c. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - d. No premises shall be utilized for a bed and breakfast operation unless there are at least two (2) exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants with an additional thirty (30) square feet for each additional occupant to a maximum of four (4) occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate operational smoke detector alarm, as required in the Delavan Building Code. One lavatory and bathing facility shall be required for every 10 occupants, in addition to the owner/occupants personal facilities.
 - e. The dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner and said operator/owner shall live on the premises when the bed and breakfast operation is active.
 - f. Only the meal of breakfast shall be served to overnight guests.

- g. Each operator shall keep a list of names of all persons staying at the bed and breakfast operation. This list shall be kept on file for a period of one year. Such list shall be available for inspection by City officials at any time.
 - h. The maximum stay for any occupants of a bed and breakfast operations shall be fourteen (14) days.
 - i. It shall be unlawful for any persons to operate a bed and breakfast operation as defined and as permitted in the Municipal Code of the City of Delavan without first having obtained a conditional use permit and a license. The fee for issuance of a license required under this Ordinance shall be \$75.00 and collected by the office of the City Clerk. The amount of such fee shall be established by the Common Council and shall be in an amount sufficient to defray the cost of inspections and supervision necessary for the implementation and enforcement of this Ordinance. The fees shall be paid at the office of the City Clerk, who shall issue the license in July of each year.
 - j. Application Requirements. Applicants for a license to operate a bed and breakfast shall submit a floor plan of the single-family dwelling unit illustrating that the proposed operation will comply with the City Zoning Ordinance as amended, other applicable City codes and Ordinances, and within the terms of this Ordinance.
 - k. Consideration of Issuance. After application duly filed with the City Clerk for a license under this division, Plan Commission review and recommendation for a conditional use permit, the Common Council shall hold a public hearing and determine whether any further license shall be issued based upon the public convenience and necessity of the people in the City. In the determination by the Common Council of the number of bed and breakfast operations required to provide for such public convenience and necessity, the Common Council shall consider the effect upon residential neighborhoods, conditions of existing holders of licenses, and the necessity of the issuance of additional licenses for public service.
 - l. Public Nuisance Violations. Bed and breakfast operations shall not be permitted whenever the operation endangers, or offends, or interferes with the safety or rights of others so as to constitute a nuisance.
 - m. Suspension, Revocation and Renewal. Any license issued under the provisions of this Ordinance may be revoked by the Common Council for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition thereto; in such investigation the compliance or non-compliance with the state law and local ordinances, the conduct of the licensee in regard to the public, and other consideration shall be weighed in determination of such issue.
 - n. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each bedroom.

(m) Group Day Care Center (Nine or More Children)

Description: Group day care centers are land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for profit or a not for profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group day care centers are not considered as accessory uses and therefore require review as a separate land use.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-8, RM-12, ON, OP, BN, BR, BL, BC, ML, MG, I (RC-80, 11/9/99), IR (RC-319, 6/12/12)}
 - a. Facility shall provide a bufferyard with a minimum opacity of .50 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
 - c. Property owner's permission is required as part of the conditional use permit application.
4. Parking Regulations: One space per five students, plus one space for each employee on the largest work shift.

(n) **Campground**

Description: Campgrounds include any facilities designed for overnight accommodation of persons in tents, travel trailers, or other mobile or portable shelters or vehicles.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac}:
 - a. Facility shall provide a bufferyard with a minimum opacity of .70 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One and one-half (1.5) spaces per campsite.

(o) **Boarding House**

Description: Boarding Homes include any residential use renting rooms to four or more people which do not contain private bathroom facilities (with the exception of approved bed and breakfast facilities).

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RM-12}: (RC-319, 6/12/12)
 - a. Facility shall provide a bufferyard with a minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. Shall provide a minimum of one on-site parking space for each room for rent.
 - c. Shall be located in an area of transition from residential land uses to nonresidential land uses.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per room for rent, plus one space per each employee on the largest work shift.

(p) **Sexually-Oriented Land Uses**

Description: Sexually-oriented land uses include any facility oriented to the display of sexually-oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas. For the purpose of this Title, "sexually specified areas" includes any one or more of the following: genitals, anal area, female areola or nipple; and "sexually-oriented material"

includes any media which displays sexually specified area(s). NOTE: The incorporation of this Subsection into this Title is designed to reflect the Common Council's official finding that sexually-oriented commercial uses have a predominant tendency to produce certain undesirable secondary effects on the surrounding community, as has been demonstrated in other, similar jurisdictions. Specifically, the Common Council is concerned with the potential for such uses to limit: the attractiveness of nearby locations for new development, the ability to attract and/or retain customers, and the ability to market and sell nearby properties at a level consistent with similar properties not located near such facilities. It is explicitly not the intent of this Subsection to suppress free expression by unreasonably limiting alternative avenues of communication, but rather to balance the need to protect free expression opportunities with the need to implement the City's Comprehensive Master Plan and protect the character and integrity of its commercial and residential neighborhoods.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {MH}:
 - a. Shall be located a minimum of 1,000 feet from any agriculturally zoned property or residentially zoned property; and shall be located a minimum of 1,000 feet from any school, church, or outdoor recreational facility.
 - b. Exterior building appearance and signage shall be designed to ensure that use does not detract from the ability of businesses in the vicinity to attract customers, nor affect the marketability of properties in the vicinity for sale at their assessed values.
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per 300 square feet of gross floor area, or one space per person at the maximum capacity of the establishment (whichever is greater).

(5) Storage or Disposal Land Uses

(a) Indoor Storage or Wholesaling

Description: Indoor storage and wholesaling land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. Retail outlets associated with this use shall be considered accessory uses per Subsection 23.206(8)(m), below.

1. Permitted by Right {ML, MG, MH}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: Not applicable.
4. Parking Regulations: One space per 2,000 sf of gross floor area.

(b) Outdoor Storage or Wholesaling

Description: Outdoor storage and wholesaling land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. Such a land use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage and wholesaling land use. Examples of this land use include contractors' storage yards, equipment yards, lumber yards, coal yards, landscaping materials yard, construction materials yards,

and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. (See Subsection (4), below.)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable. (RC-319, 6/12/12)
3. Conditional Use Regulations {MG, ML, MH}: (RC-319, 6/12/12)
 - a. The storage of items shall not be permitted in permanently protected green space areas (see Section 23.608).
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space for every 10,000 square feet of gross storage area, plus one space per each employee on the largest work shift.

(c) **Personal Storage Facility**

Description: Personal storage facilities are land uses oriented to the indoor storage of items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as "mini-warehouses".

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {BL, ML, MG}:
 - a. Facility shall be designed so as to minimize adverse visual impacts on nearby developments. The color, exterior materials, and orientation of proposed buildings and structures shall complement surrounding development.
 - b. Facility shall provide a bufferyard with a minimum opacity of .80 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space for each employee on the largest work shift.

(d) **Junkyard or Salvage Yard**

Description: Junkyard or salvage yard facilities are any land or structure used for a salvaging operation including but not limited to: the above-ground, outdoor storage and/or sale of waste paper, rags, scrap metal, and any other discarded materials intended for sale or recycling; and/or the collection, dismantlement, storage, or salvage of 2 or more unlicensed and/or inoperative vehicles. Recycling facilities involving on-site outdoor storage of salvage materials are included in this land use.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, MH}:
 - a. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines.
 - c. In no instance shall activity areas be located within a required frontage landscaping or bufferyard areas.
 - d. Shall not involve the storage, handling or collection of hazardous materials, including any of the materials listed in Section 23.719.
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

4. Parking Regulations: One space for every 20,000 square feet of gross storage area, plus one space for each employee on the largest work shift.
- (e) **Waste Disposal Facility**
 Description: Waste disposal facilities are any areas used for the disposal of solid wastes including those defined by Wisconsin Statutes 144.01(15), but not including composting operations (see Subsection (f), below).
1. Permitted by Right: Not applicable.
 2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations {RH-35ac, MH}:
 - a. Shall comply with all County, State and Federal regulations.
 - b. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property (see Section 23.610).
 - c. All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.
 - d. Operations shall not involve the on-site holding, storage or disposal of hazardous materials (as defined by Section 23.719) in any manner.
 - e. Required site plans shall include detailed site restoration plans, which shall include at minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110% of the costs determined to be associated with said restoration (as determined by a third party selected by the City), shall be filed with the City by the Petitioner (subject to approval by the City Administrator), and shall be held by the City for the purpose of ensuring that the site is restored to its proposed condition. (The requirement for surety is waived for waste disposal facilities owned by public agencies.)
 - f. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses. *State Law Reference: Section 144, Subchapter IV, Wisconsin Statutes*
 4. Parking Regulations: One space for each employee on the largest work shift.
- (f) **Composting Operation**
 Description: Composting operations are any land uses devoted to the collection, storage, processing and or disposal of vegetation.
1. Permitted by Right: Not applicable.
 2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations {RH-35ac, MH}:
 - a. Shall comply with all County, State and Federal regulations.
 - b. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property occupied by non-agricultural land uses (see Section 23.610).
 - c. All buildings, structures, and activity areas shall be located a minimum of 100 feet from all lot lines.
 - d. No food scraps or other vermin-attracting materials shall be processed, stored or disposed of on-site.
 - e. Operations shall not involve the on-site holding, storage or disposal of hazardous wastes as defined by State Statutes in any manner.
 - f. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
 4. Parking Regulations: One space for each employee on the largest work shift.

(g) **Recycling and Related Activities** (RC-331, 5/14/13)

Description: Recycling and Related Activities facilities are any land, building or structure used for recycling and related activities including, but not limited to, materials handling, materials sorting, and materials processing; all of which, except for storage, occur within buildings. Land uses performing similar activities all or partially outdoors; land uses involving organic products or waste other than paper, cardboard and related materials; and/or land uses involving intact vehicles; shall be regulated under other land use type categories.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {MG, MH}:
 - a. All activities other than employee, customer and commercial vehicle parking (and facilities approved in Subsection c., below) shall occur within a building which is fully enclosed by roof and walls on all sides; except that materials awaiting sorting or shipping may be stored in bins, fully enclosed truck trailers and truck boxes, and rail cars
 - b. Building openings shall be limited to windows, doors and loading bays; all of which shall be designed to be fully closed; with the exception of one building opening which may not exceed 2,400 square feet nor more than a 40 foot high opening. Such an opening shall be screened per e., below.
 - c. No outdoor storage or handling of materials to be sorted or shipped is permitted unless fully confined to storage containers, storage bins, truck trailers or truck boxes, rail cars or related devices which are explicitly identified and located on an approved site plan, and screened from view from adjacent properties and rights-of-way with a bufferyard with a minimum opacity of .6. Such storage areas shall be paved with concrete or asphalt. Such outdoor storage shall also require the approval of a conditional use permit for Outdoor Storage land uses.
 - d. Facility shall provide a bufferyard with a minimum opacity of .6 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - e. Facility shall provide a bufferyard with a minimum opacity of .8 to screen the view of any non-closable building opening from any and all adjacent properties and rights-of-way to a degree approved in the conditional use permit.
 - f. In no instance shall any activity areas (including, but not limited to, storage or parking) be located within a required landscaping or bufferyard area.
 - g. The use shall not involve the storage, handling or collection of hazardous materials, including any of the materials listed in Section 23.719; or of organic materials other than paper, cardboard and related materials as determined by the City.
 - h. No burning or incineration of materials is permitted. Torches may be used to cut metal.
 - i. The applicant shall provide the routing of commercial vehicles to and from the facility within the city limits and the extraterritorial area. Said routing shall demonstrate that such routing is limited to designated truck routes wherever possible.
 - j. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space for each employee on the largest work shift.

(6) **Transportation Land Uses**

(a) **Off-Site Parking Lot**

Description: Off-site parking lots are any areas used for the temporary parking of vehicles which are fully registered, licensed and operative. See also Section 23.704 for additional parking regulations.

1. Permitted Use Regulations: Not applicable.
2. Special Use Regulations {BL, BC, MG, MH}:
 - a. Access to off-site parking shall be permitted only to a collector or arterial street.
 - b. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.
4. Parking Regulations: No requirement.

(b) **Airport/Heliport** (RC-355, 6/9/15)

Description: Airports and heliports are transportation facilities providing takeoff, landing, servicing, storage and other services to any type of air transportation. The operation of any type of air vehicle (including ultralight aircraft, hang gliders, parasails, and related equipment, but excepting model aircraft) within the jurisdiction of this Title shall occur only in conjunction with an approved airport or heliport.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac, OP, ML, MG, MH}:
 - a. All buildings, structures, outdoor airplane or helicopter storage areas, and any other activity areas shall be located a minimum of 50 feet from all front lot lines, side lot lines, and rear lot lines, and a minimum of 100 feet from all street rights-of way.
 - b. Hangars and other principal buildings shall be separated by a minimum of 50 feet, and shall not exceed 50 feet in height.
 - c. All areas of the site located within 100 feet of airport or heliport buildings shall comply with the bufferyard requirements of the ML zoning district, except where said bufferyard would interfere with airport height limitations or flight operations. (See Section 23.610).
 - d. Hangars shall not be used for residential or lodging land uses.
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift, plus one space per every 5 passengers based on average daily ridership.

(c) **Freight Terminal**

Description: Freight terminals are defined as land and buildings representing either end of one or more truck carrier line(s) which may have some or all of the following facilities: yards, docks, management offices, storage sheds, buildings and/or outdoor storage areas, freight stations, and truck maintenance and repair facilities, principally serving several or many businesses and always requiring trans-shipment.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {MH}:
 - a. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property abutting residentially zoned property (see Section 23.610).

- b. All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines abutting residentially zoned property.
 - c. In no instance shall activity areas be located within a required frontage landscaping or bufferyard areas.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(d) Distribution Center

Description: Distribution centers are facilities oriented to the short-term indoor storage and possible repackaging and reshipment of materials involving the activities and products of a single user. Retail outlets associated with this use shall be considered accessory uses per Subsection 23.206(8)(m), below.

- 1. Permitted by Right: Not applicable. (RC-364, 4/12/16)
 - 2. Special Use Regulations: Not applicable.
 - 3. Conditional Use Regulations {ML, MG, MH } : (RC-364, 4/12/16)
 - a. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property abutting residentially zoned property (see Section 23.610).
 - b. All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines abutting residentially zoned property.
 - c. In no instance shall activity areas be located within a required frontage landscaping or bufferyard areas.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(7) Industrial Land Uses

(a) Light Industrial Land Use

Description: Light industrial land uses are industrial facilities at which all operations (with the exception of loading operations): 1) are conducted entirely within an enclosed building; 2) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; 3) do not pose a significant safety hazard (such as danger of explosion); and 4) comply with all of the performance standards listed for potential nuisances in Subchapter 23-- Light industrial land uses may conduct retail sales activity as an accessory use provided that the requirements of Subsection (8)(m), below, are complied with.

- 1. Permitted by Right: Not applicable.
 - 2. Special Use Regulations: {ML, MG}. (RC-319, 6/12/12)
 - a. All exterior development, including modified or new structures and paved areas, shall be subject to site plan review and approval by the Industrial Development Design Review Committee. (RC-319, 6/12/12)
 - 3. Conditional Use Regulations: {MH}. (RC-92, 3/15/00) (RC-319, 6/12/12)
 - a. All activities, except loading and unloading, shall be conducted entirely within the confines of a building.
 - b. Shall comply with Section 24.904, procedures applicable to all special uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(b) Manufacturing Heavy Industrial Land Use

Description: Heavy industrial land uses are industrial facilities which do not comply with 1 or more of the following criteria: 1) are conducted entirely within an enclosed building; 2) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and 3) do not pose a significant safety hazard (such as danger of explosion). More specifically, heavy industrial land uses are industrial land uses which may be wholly or partially located outside of an enclosed building; may have the potential to create certain nuisances which are detectable at the property line; and may involve materials which pose a significant safety hazard. However, in no instance shall a heavy industrial land use exceed the performance standards listed in Subchapter 23-7. Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical production facilities, electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials. (RC-117, 6/12/01)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable. (RC-111, 5/8/01)
3. Conditional Use Regulations {MH}: (RC-111, 5/8/01)
 - a. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property abutting properties which are not zoned (MH) (see Section 23.610).
 - b. All outdoor activity areas shall be located a minimum of 100 feet from residentially zoned property. No materials shall be stacked or otherwise stored so as to be visible over bufferyard screening elements.
 - c. Shall comply with Section 24.904, procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(c) Communication Tower

Description: Communication towers include all free-standing broadcasting, receiving, or relay structures, and similar principal land uses; and any office, studio or other land uses directly related to the function of the tower.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Requirements {RH-35ac, RS-3, ML, MG, MH (RC-319, 6/12/12)}: (RC-27, 2/10/98)
 - a. Tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property.
 - b. The installation and continued maintenance of a bufferyard with a minimum opacity of .80 along borders of the lot abutting residentially zoned property (see Section 23.610).
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per employee on the largest work shift.

(d) **Extraction Use**

Description: Extraction uses include and land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations {RH-35ac):
 - a. Shall receive approval from Walworth County prior to action by the City of Delavan, and shall comply with all County, State and Federal regulations.
 - b. Facility shall provide a bufferyard with a minimum opacity of 1.00 along all borders of the property (see Section 23.610).
 - c. All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.
 - d. Required site plans shall include detailed site restoration plans, which shall include at minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110% of the costs determined to be associated with said restoration (as determined by a third party selected by the City), shall be filed with the City by the Petitioner (subject to approval by the Zoning Administrator), and shall be held by the City for the purpose of ensuring that the site is restored to its proposed condition. (The requirement for said surety is waived for waste disposal facilities owned by public agencies.)
 - e. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
4. Parking Regulations: One space per each employee on the largest work shift.

(8) **Accessory Land Uses**

Accessory uses are land uses which are incidental to the principal activity conducted on the subject property. Only those accessory uses listed in Table 23.203 shall be permitted within the jurisdiction of this Title. With the exception of a commercial apartment (see (a), below), or a farm residence (see (c), below), in no instance shall an accessory use, cellar, basement, tent or recreational trailer be used as a residence. With the exception of farm buildings, accessory buildings located within a residential district shall be constructed or finished in a complimentary architectural style and with complimentary materials to the principal residential buildings in the neighborhood. Accessory uses shall not be located between a principal building and a street frontage on the same lot, nor within any required front yard or street side yard, except an accessory structure may be located in a side yard providing the structure complies with the setback requirements applicable to the principal structure. (RC-15, 9/16/97)

(a) **Commercial Apartment**

Description: Commercial apartments are dwelling units which are located above the ground floor of a building used for a commercial land use (as designated in Subsection (4), above). Commercial apartments are considered an accessory use to the principal use of the structure, typically office, personal or professional service, or indoor sales or service. Because they are an accessory use, the presence of commercial apartments within a structure does not create a Group Development. The primary advantage of commercial apartments is that they are able to share required parking spaces with nonresidential uses. (RC-319, 6/12/12)

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.

3. Conditional Use Regulations {BN, BR, BL, BC, ON (RC-317, 5/15/12) (RC-319, 6/12/12)}:
 - a. The gross floor area devoted to commercial apartments shall be counted toward the floor area of a nonresidential development.
 - b. A minimum of 1 off-street parking space shall be provided for each bedroom within a commercial apartment. Parking spaces provided by nonresidential land uses on the site may be counted for this requirement with the approval of the Zoning Administrator.
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- (b) **On-Site Parking Lot**
 Description: On-site parking lots are any areas located on the same site as the principal land use which are used for the temporary parking of vehicles which are fully registered, licensed and operative. Refer also to Section 23.704.
1. Permitted by Right: Not applicable.
 2. Special Use Regulations {All Districts}:
 - a. Access to an off-site parking lot shall only be permitted to a collector or arterial street.
 - b. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
 3. Conditional Use Regulations: Not applicable.
- (c) **Farm Residence**
 Description: A farm residence is a single-family detached dwelling unit located on the same property as any of the principal agricultural land uses listed in Subsection (2), above.
1. Permitted by Right {All Districts}
 2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations: Not applicable.
- (d) **Detached Private Residential Garage, Carport, or Utility Shed (RC-98, 6/13/00)**
 Description: A private residential garage, carport or utility shed is a structure which primarily accommodates the sheltered parking of a passenger vehicle and/or the storage of residential maintenance equipment. It may be located on the same lot as a residential unit or units, or on a separate lot in conjunction with a residential land use. See Section 23.409 for requirements applicable to legal, nonconforming garages. Garages, carports and utility sheds in excess of 1,000 square feet of gross floor area are not permitted in residential districts except as conditional uses. (Also see Sec. 23.206(8).)
1. Permitted by Right {All Districts, if under 1,000 sq. ft.}
 2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations: In excess of 1,000 sq. feet.
- (e) **Private Residential Recreational Facility (RC-353, 6/9/15)**
 Description: This land use includes all active outdoor recreational facilities located on a private residential lot which are not otherwise listed in Table 23.203. Materials and lighting shall limit light levels at said property line are to be equal to or less than 0.5 foot candles (see Section 23.707). All private residential recreation facilities and their attendant structures shall comply with the bulk requirements for accessory structures. (See Subchapter 23-4.) Common examples of these accessory uses include basketball courts, tennis courts, swimming pools, and recreation-type equipment.

1. Permitted by Right: (All accessory uses except swimming pools). {All Districts}
2. Special Use Regulations (for swimming pools) {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12}:

- a. **Swimming Pools:**

No person shall construct, maintain, install or enlarge any swimming pool within the City of Delavan, except in compliance with the provisions of this code enacted by the City for public safety pursuant to the International Swimming Pool and Spa Code 2012 (ISPSC).

1. Swimming pool definition:

- a. Means a receptacle for water, or any artificial pool of water having a depth at any point of more than two (2) feet, intended for the purpose of immersion or partial immersion therein of human beings, and including all appurtenant equipment.

2. Location:

- a. No portion shall be located at a distance not less than 10 feet from any side or rear property line, or building line. Pumps, filters and pool water disinfection equipment installation shall be located at a distance not less than 10 feet from any side property line.

3. Permit required:

- a. No person shall construct, install, enlarge, or alter any private residential swimming pool and appurtenances thereto within City unless a permit therefor shall have first been obtained from the Building Inspector. All private residential swimming pools, appurtenances, water supply and drainage systems shall be constructed in conformity with the approved plans therefor and with this code.

4. Pool Maintenance:

- a. The systems supplying recirculated water and makeup water to the pool shall be constructed in conformance with this code and the plumbing code of the state of Wisconsin.
- b. Pools shall be equipped with facilities for completely emptying the pool and the discharge of the pool water to the storm sewer and shall be at a rate not to exceed 200 gallons per minute. No direct connection shall be made to any sanitary sewer for the draining of the pool water. It shall be the responsibility of the owner to provide equipment, hose, tank truck or otherwise, to empty the pool water into the storm sewer.
- c. Equipment shall be provided for the disinfection of all pool water.

5. Electrical Connection: Electrical connections shall conform to the National Electrical Code and the Electrical Code of the state of Wisconsin.

- a. No extension cord connection may be used for any pool system.

6. Fence Required:

- a. Swimming pools not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool.
- b. Shall not be less than four feet (4') in height.
- c. Fence installation and materials shall conform to the zoning code section 23.720 Fencing Standards of the Delavan zoning code.
- d. Shall be so constructed so as not to have voids, holes or openings that would allow the passage of four inches (4") sphere.

- e. Above-ground pools with built-in fencing and/or locking gates to prevent unguarded entry will be allowed without separate additional fencing, per the approval of the Zoning Administrator.
- f. No fence shall be located, erected, constructed or maintained closer to a pool than three feet.

7. Gates:

- a. Shall be equipped to accommodate a locking device.
- b. Pedestrian access gates shall open outward away from the swimming pool and shall be self-closing and have a self-latching device.
 - i. Where the release mechanism of the self-latching device is located less than 54 inches from grade, the release mechanism shall be located on the swimming pool side of the gate at least 3 inches below the top of the gate, and the gate and barrier shall not have openings greater than 1/2 inch (12.7 mm) within 18 inches of the release mechanism.

- b. Shall comply with Section 24.904, procedures applicable to all special uses.

(f) **Private Residential Kennel**

Description: A maximum of any combination of 3 dogs and/or cats (over 6 months of age) are permitted by right for any 1 residential unit. Any residence housing a number of dogs and or cats exceeding this number shall be considered a private residential kennel. Such a kennel (dogs only) shall require licensing by the City of Delavan. In addition to those requirements, a private residential kennel shall meet the following requirements:

1. Permitted by Right: {All Districts for any combination of 3 (or fewer) dogs and/or cats over 6 months of age}.
2. Special Use Regulations {RH-35ac}:
 - a. For any number over three animals, a maximum of one additional animal per 5 acres shall be permitted.
 - b. Outdoor containments for animals shall be located a minimum of 25 feet from any residentially zoned property and shall be screened from adjacent properties.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations {RE-5ac, RS-2}:
 - a. Shall comply with regulations in 2., above.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(g) **Private Residential Stable**

Description: A private residential stable is a structure facilitating the keeping of horses (or similar animals) on the same site as a residential dwelling.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {RH-35ac}:
 - a. A minimum lot area of 175,000 square feet (4 acres) is required for a private residential stable.
 - b. A maximum of one horse per five acres of fully enclosed, by fencing and/or structures, area is permitted.
 - c. Outdoor containments for animals shall be located a minimum of 25 feet from any residentially zoned property.
 - d. The requirements of Subsection 23.206(4)(k) shall also apply to private residential stables.

- e. Shall comply with Section 24.904, procedures applicable to all special uses.
 - 3. Conditional Use Regulations {RE-5ac}:
 - a. Shall comply with regulations in b., above.
 - b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- (h) **Company Cafeteria**
 Description: A company cafeteria is a food service operation which provides food only to company employees and their guests, which meets State food service requirements, and is located on the same property as a principal land use engaged in an operation other than food service.
- 1. Permitted by Right {ON, OP, BR, BL, BC, ML, MG, MH}
 - 2. Special Use Regulations: Not applicable.
 - 3. Conditional Use Regulations: Not applicable.
- (i) **Company Provided On-Site Recreation**
 Description: A company provided on-site recreational facility is any active or passive recreational facility located on the same site as a principal land use, and which is reserved solely for the use of company employees and their guests. Facilities using activity night lighting shall be a conditional use.
- 1. Permitted by Right: Not applicable.
 - 2. Special Use Regulations {ON, OP, BR, BL, BC, ML, MG, MH}:
 - a. All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.
 - b. Shall comply with Section 24.904, procedures applicable to all special uses.
 - 3. Conditional Use Regulations: {ON, OP, BR, BL, BC, ML, MG, MH}:
 - a. Outdoor recreation facilities using night lighting and adjoining a residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity of 0.60 (see Section 23.610). Said bufferyard shall be located at the property line adjacent to said residentially zoned property.
 - b. All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
- (j) **Outdoor Display Incidental to Indoor Sales and Service (more than 12 days)**
 Description: See Subsection 23.206(4)(d).
- 1. Permitted by Right: Not applicable.
 - 2. Special Use Regulations: Not applicable.
 - 3. Conditional Use Regulations {BR, BL, ML, MG}:
 - a. Shall comply with all conditions of Subsection (4)(d), above.
 - b. Display area shall not exceed 25% of gross floor area of principal building on the site.
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- (k) **In-Vehicle Sales and Services Incidental to On-Site Principal Land Use**
 Description: See Subsection 23.206(4)(g), above.
- 1. Permitted by Right: Not applicable.
 - 2. Special Use Regulations: Not applicable.
 - 3. Conditional Use Regulations {ON, OP, BN, BR, BL, BC, ML}:
 - a. Shall comply with all conditions of Subsection (4)(g), above.

- b. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(l) **Indoor Sales Incidental to Storage or Light Industrial Land Use**

Description: These land uses include any retail sales activity conducted exclusively indoors which is incidental to a principal land use such as warehousing, wholesaling or any light industrial land use, on the same site.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {ML, MG, MH}:
 - a. Adequate parking, per the requirements of Section 23.704, shall be provided for customers. Said parking shall be in addition to that required for customary light industrial activities.
 - b. The total area devoted to sales activity shall not exceed 25% of the total area of the buildings on the property.
 - c. Shall provide restroom facilities directly accessible from retail sales area.
 - d. Retail sales area shall be physically separated by a wall from other activity areas.
 - e. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.

(m) **Light Industrial Activities Incidental to Indoor Sales or Service Land Use**

Description: These land uses include any light industrial activity conducted exclusively indoors which is incidental to a principal land use such as indoor sales or service, on the same site.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations: {BR, BN, BL, BC}:
 - a. The total area devoted to light industrial activity shall not exceed 15% of the total area of the buildings on the property, or 5,000 square feet, whichever is less.
 - b. Production area shall be physically separated by a wall from other activity areas and shall be soundproofed to the level required by Section 23.709 for all adjacent properties.
 - c. Shall comply with Section 24.905, procedures applicable to all conditional uses.

(n) **Drainage Structure**

Description: These include all improvements including, but not limited to swales, ditches, culverts, drains, tiles, gutters, levees, basins, detention or retention facilities, impoundments, and dams intended to effect the direction, rate and/or volume of stormwater runoff, snow melt, and/or channelized flows across, within and/or away from a site.

1. Permitted by Right: Not applicable.
2. Special Use Regulations {All Districts}:
 - a. Shall comply with Section 23.206(10) for the placement of drainage structures in permanently protected green space areas.
 - b. Shall comply with Section 23.206(10) and provisions of the City's Subdivision Regulations regarding protection measures for drainageways.
 - c. Any drainage improvement shall not increase the rate or volume of discharge from the subject property onto any adjacent properties, except where regional stormwater management facilities such as storm sewers and retention or detention facilities are in place to serve the subject property.
 - d. Shall comply with Section 24.904, procedures applicable to all special uses.

3. Conditional Use Regulations: Not applicable.
- (o) **Filling**
 Description: Filling includes any activity in an area over 4,000 square feet or greater than 500 cubic yards of fill, involving the modification of the earth's surface above that in its undisturbed state.
1. Permitted by Right: Not applicable.
 2. Special Use Regulations {All Districts}:
 - a. Shall comply with Section 23.204 regarding filling activities in permanently protected green space areas.
 - b. Shall comply with Subchapter 23-5 regarding protection measures for natural resources.
 - c. Shall not create drainage onto other properties.
 - d. Shall not impede on-site drainage.
 - e. Shall comply with provisions of the Subdivision and Platting Ordinance.
 - f. Shall comply with Section 24.904, procedures applicable to all special uses.
 3. Conditional Use Regulations: Not applicable.
- (p) **Lawn Care**
 Description: Lawn care includes any activity involving the preparation of the ground, installation and maintenance of vegetative ground cover (including gardens) which complies with the City of Delavan Code of Ordinances. Lawn care is not permitted in certain permanently protected green space areas, see Section 23.509.
1. Permitted by Right {All Districts}
 2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations: Not applicable.
- (q) **Individual Septic Disposal System**
 Description: This land use includes any State-enabled, County-approved septic disposal system.
1. Permitted by Right: Not applicable.
 2. Special Use Regulations: Not applicable.
 3. Conditional Use Regulations: {RH-35ac}
 - a. Minimum lot size of 0.5 acres.
 - b. Shall comply with Subchapter 23-5 regarding protection measures for natural resources.
 - c. Installation shall be approved by Water and Sewer Commission.
 - d. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.
- (r) **Exterior Communication Devices** (e.g. satellite dishes, ham radio towers, t.v. antennas)
 Description: Reserved.
1. Permitted by Right: Not applicable.
 2. Special Use Regulations: {All Districts}.
 - a. Exterior communication devices shall not be located between the principle structure and a public street.
 - b. Devices must be sited an equal or greater number of feet from any property lines as their maximum height.
 3. Conditional Use Regulations: {All Districts}.
 - a. Devices that do not meet Special Use requirements.
 - b. The Applicant must demonstrate that all reasonable mechanisms have been used to mitigate safety hazards and the visual inputs of the device.

(s) Home Occupation

Description: Home occupations are economic activities performed within any single-family detached residence which comply with the following requirements. Examples include personal and professional services, and handicrafts, which comply with all of the following requirements:

1. Permitted by Right: Not applicable.
2. Special Use Regulations {All Districts}
 - a. The home occupation shall be conducted only completely within the dwelling unit or accessory building or structure and not on any porch, deck, patio or other unenclosed or partially-enclosed portion of the dwelling unit.
 - b. The home occupation shall be conducted by a resident of the dwelling unit, and no more than 1 other person shall be employed, on either a part-time or full-time basis, in the business.
 - c. No more than 25% of the total living area of the dwelling (exclusive of garage and porch areas) shall be used for the home occupation.
 - d. The dwelling unit used for the home occupation shall not serve as a storage facility for a business conducted elsewhere.
 - e. No activity, materials, goods, or equipment incidental to the home occupation shall be externally visible.
 - f. Only 1 sign, not to exceed 2 square feet, non-illuminated and wall mounted only, may be used to advertise a home occupation. Said sign shall not be located within a right-of-way, and shall be of an appearance which is harmonious with nearby residential areas.
 - g. The use of the dwelling unit for a home occupation shall in no way be incompatible with the character of nearby residential areas.
 - h. A minimum of 2 off-street parking spaces reserved for business use shall be provided on-site.
 - i. In no instance shall a home occupation create a nuisance for neighboring properties.
 - j. Subject property owner's written permission is required as part of the special use application.
 - k. Shall comply with Section 24.904, standards and procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.

(t) On-Site Composting and Wood Piles

Description: Includes all collection, storage, and processing of vegetation wastes and/or wood piles.

1. Permitted by Right: {All Districts}: All facilities less than five cubic yards of compost or five full cords of wood.
2. Special Use Regulations {All Districts}
 - a. Shall be limited to no more than 10 cubic yards of total collection, storage and processing area, and/or 10 full cords of total collection and storage area. All such areas shall be located a minimum of 5 feet from all property lines.
 - b. Shall not involve food scraps, other vermin-attracting materials, or rotted wood and shall be maintained in an attractive manner.
 - c. Shall comply with Section 24.904, procedures applicable to all special uses.
3. Conditional Use Regulations: Not applicable.

(u) **Family Day Care Home (Four to Eight Children)**

Description: Family day care homes are occupied residences in which a qualified person or persons provide child care for 4 to 8 children. The care of less than 4 children is not subject to the regulations of this Title.

1. Permitted by Right: {RH-35ac, RE-5ac, RS-2, RS-3, RS-5, RM-8, RM-12}
2. Special Use Regulations: Not applicable.
3. Conditional Use Regulations Not applicable.

State Law Reference: Section 66.304(b)(2), Wisconsin Statutes

(v) **Migrant Labor Camp**

Migrant labor camps include any facility subject to the regulation of Wisconsin Statutes 103.90.

1. Permitted by Right: Not applicable.
2. Special Use Regulations: Not applicable
3. Conditional Use Regulations {RH-35ac}
 - a. Shall be surrounded by a bufferyard with a minimum opacity of .60 along all property lines adjacent to all properties in residential, office or commercial zoning districts (see Section 23.610).
 - b. Migrant labor camp shall be an accessory use to an active principal use, under the same ownership, which is located within the City of Delavan.
 - c. Shall comply with Section 24.905, standards and procedures applicable to all conditional uses.

(9) **Temporary Land Uses**

(a) **Contractor's Project Office** {All Districts}

Description: Includes any structure containing an on-site construction management office for an active construction project.

1. Temporary Use Regulations:
 - a. Structure shall not exceed 2,000 square feet in gross floor area.
 - b. Facility shall be removed within 10 days of issuance of occupancy permit.
 - c. Shall not be used for sales activity. (See subsection (9)(d), below.)
 - d. Projects requiring said land use to be in place for more than 365 days shall require a Conditional Use Permit.
 - e. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.

(b) **Contractor's On-Site Equipment Storage Facility** {All Districts}

Description: Includes any structure or outdoor storage area designed for the on-site storage of construction equipment and/or materials for an active construction project.

1. Temporary Use Regulations:
 - a. Facility shall be removed within 10 days of issuance of occupancy permit.
 - b. Projects requiring said land use to be in place for more than 365 days shall require a Conditional Use Permit.
 - c. Shall be limited to a maximum area not exceeding 10% of the property's Gross Site Area.
 - d. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.

- (c) **Relocatable Building** {ON, OP, BN, BR, BL, BC, ML, MG, MH}
 Description: Includes any manufactured building which serves as a temporary building for less than 6 months. (Facilities serving for more than 6 months shall be considered conditional uses and subject to the general standards and procedures presented in Section 24.905.)
1. Temporary Use Regulations:
 - a. Shall conform to all setback regulations.
 - b. Shall conform to all building code regulations.
 - c. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.
- (d) **On-Site Real Estate Sales Office** {All Districts}
 Description: Includes any building which serves as an on-site sales office for a development project.
1. Temporary Use Regulations:
 - a. Structure shall not exceed 5,000 square feet in gross floor area.
 - b. Facility shall be removed or converted to a permitted land use within 10 days of the completion of sales activity.
 - c. Signage shall comply with the requirements for temporary signs in Section 23.807.
 - d. Projects requiring said land use to be in place for more than 365 days shall require a Conditional Use Permit.
 - e. Shall comply with Section 24.906, applicable to all temporary uses.
- (e) **General Temporary Outdoor Sales** {BN, BR, BL, BC, ML (RC-319, 6/12/12)}
 Description: Includes the display of any items outside the confines of a building which is not otherwise permitted as a permitted, special, or conditional use, or a special event otherwise regulated by the City of Delavan Municipal Code. Examples of this land use include but are not limited to: seasonal garden shops, tent sales, and bratwurst stands. Garage sales are exempt from the provisions of this Title, but shall comply with the requirements of the City of Delavan Municipal Code.
1. Temporary Use Regulations:
 - a. Display shall be limited to a maximum of 120 days in any calendar year.
 - b. Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
 - c. Signage shall comply with the requirements for temporary signs in Section 23.807.
 - d. Adequate parking shall be provided.
 - e. If subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.
 - f. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.
 - g. If the approved site plan does not change, the zoning permit will continue. (RC-29, 2/10/98)
- (f) **Seasonal Outdoor Sales of Farm Products** {RH-35ac, BN, BR, BL, BC, ML, MG}
 Description: Includes any outdoor display of farm products not otherwise regulated by the City of Delavan Code of Ordinances.
1. Temporary Use Regulations:
 - a. Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.

- b. Signage shall comply with the requirements for temporary signs in Section 23.807.
- c. Adequate parking shall be provided.
- d. If subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.
- e. Shall comply with Section 24.906, standards and procedures applicable to all temporary uses.

(g) **Outdoor Assembly** {All Districts}

Description: Includes any organized outdoor assembly of more than 100 persons.

- 1. Conditional Temporary Use Regulations:
 - a. Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
 - b. Signage shall comply with the requirements for temporary signs in Section 23.807.
 - c. Adequate parking, drinking water, and toilet facilities shall be provided, and shall be described in the application.
 - d. If subject property is located adjacent to a residential area, activities shall be limited to daylight hours.
 - e. Adequate provisions for crowd control shall be made, and shall be described within the application.
 - f. Shall comply with Section 24.904, applicable to all temporary uses.

(h) **Limited Duration Special Activities and Events** {All Districts} (RC-319, 6/12/12)

Description: Any use of a structure or land for an indoor and/or outdoor event for a limited period for time not otherwise addressed in subsections 23.206(9)(a)-(g), above, where the site is not to be permanently altered by grading or construction. Events include, but are not limited to, art shows, outdoor festivals and concerts, boat shows, hot air balloon launch, or benefit event.

- 1. Temporary Use Regulations:
 - a. Duration.
 - i. Temporary activities or events shall be limited to a period of no more than 2 consecutive days in the RH-35, RE-5, RS-2, RS-3, RS-5, RM-8, RM-12, ON, OP, MG, MH, I, and IR districts.
 - ii. Temporary activities or events shall be limited to a period of no more than 10 consecutive days in the BN, BR, BL, BC, ML, and PR districts.
- 2. Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
- 3. Adequate provisions for crowd control shall be made, and shall be described within the temporary use application.
- 4. Adequate parking, drinking water, and toilet facilities shall be provided, and shall be described in the temporary use application.
- 5. Signage shall comply with the requirements for temporary signs in Section 23.807.
- 6. Shall comply with Section 24.904, procedures applicable to special uses.
- 7. Shall comply with Section 24.906, procedures applicable to temporary uses.

(10) **Natural Resource Disruption and Required Mitigation Standards**

For all land uses, disruption to natural resource areas shall comply with the requirements of the Subdivision and Platting Ordinance pertaining to drainage, grading and erosion control. All land uses located within Permanently Protected Green Space Areas shall comply with the following regulations:

- (a) **Cultivation**
 - 1. Permitted as a Conditional Use: {Other permanently protected green space areas}:
 - a. Permitted only if designated on the submitted site plan, and/or the recorded Plat or Certified Survey as an "Area which may be used for cultivation".

- (b) **Passive Outdoor Public Recreational Area**
 - 1. Permitted as a Special Use: {All permanently protected green space areas}:
 - a. limited to a 20 foot wide area in permanently protected natural resource areas. Permitted in other permanently protected green space areas without restriction.
 - b. Non-native vegetation shall not be permitted to spread into permanently protected natural resource areas beyond said 20 foot wide area.
 - 2. Permitted as a Conditional Use: Not applicable.

- (c) **Active Outdoor Public Recreational Area**
 - 1. Permitted as a Special Use {Other permanently protected green space areas}:
 - a. Non-native vegetation shall not be permitted to spread into permanently protected natural resource areas.
 - 2. Permitted as a Conditional Use: {Floodway Fringe}

- (d) **Outdoor Institutional**
 - 1. Permitted as a Special Use {Other permanently protected green space areas}:
 - a. Non-native vegetation shall not be permitted to spread into permanently protected natural resource areas.
 - 2. Permitted as a Conditional Use: Not applicable.

- (e) **Lawn Care**
 - 1. Permitted as a Special Use {Other permanently protected green space areas}:
 - a. Non-native ground cover shall not be permitted to spread into permanently protected natural resource areas. Clearance of understory growth shall be permitted.
 - 2. Permitted as a Conditional Use {All permanently protected natural resource areas except wetlands}:
 - a. Only disturbance associated with the care of native vegetation is permitted, with the exception of a 20 foot wide access path which may be cleared for passive recreation purposes.
 - b. Each property abutting a natural resource area shall be limited to one such access path.
 - c. Non-native vegetation (such as domestic lawn grasses) shall not be introduced into natural resource areas beyond said 20 foot wide access path.

- (f) **Golf Course**
 - 1. Permitted as a Conditional Use {All permanently protected natural resource areas}:
 - a. Only disturbance associated with the care of native vegetation is permitted. Natural resource areas which are located within or adjacent to golf play areas shall be incorporated into the course design as out-of-bounds play hazards, and shall be maintained in their natural state.

(g) Any Permitted Temporary Use

1. Permitted as a Special Use: {Other permanently protected green space areas}
 - a. Activity shall in no manner encroach upon permanently protected natural resources areas. Party securing the temporary use permit shall be responsible for restoring all such natural resource areas to an undamaged state, or shall be considered in violation of the provisions of this Ordinance. (See Section 24.906.)
2. Permitted as a Conditional Use: Not applicable.

(h) Drainage Structure

1. Permitted as a Special Use: Not applicable.
2. Permitted as a Conditional Use {All permanently protected green space areas}:
 - a. Structure shall be deemed necessary by the Department of Public Works.
 - b. Natural vegetation shall be restored in disturbed areas.

(i) Filling

1. Permitted as a Special Use: Not applicable
2. Permitted as a Conditional Use {All permanently protected green space areas}:
 - a. Filling in the floodway shall be done only as required by a necessary road, bridge, utility, or other infrastructure facility which has been deemed necessary by the Department of Public Works.
 - b. Natural vegetation shall be restored in disturbed areas.
 - c. In no instance shall filling raise the base flood elevation.

(j) Road and/or Bridge

1. Permitted as a Special Use: Not applicable.
2. Permitted as a Conditional Use {All permanently protected green space areas}:
 - a. May locate in or across a natural resource areas only in conjunction with a boat landing, or when deemed essential by the Department of Public Works.
 - b. May locate in other permanently protected green space areas if designed to provide an essential service to an activity area located within the green space area which cannot be efficiently reached from another point.
 - c. In general, road networks shall be designed to circumvent permanently protected green space areas, thereby eliminating the need for intrusions and crossings.

(k) Utility Lines and Related Facilities

1. Permitted as a Special Use: Not applicable.
2. Permitted as a Conditional Use {All permanently protected green space areas}:
 - a. May locate in or across a natural resource areas only when deemed essential by the Department of Public Works.
 - b. May locate in other permanently protected green space areas if designed to provide an essential service to an activity area located within the green space area which cannot be efficiently reached from another point.
 - c. In general, utility lines shall be designed to circumvent permanently protected green space areas, thereby eliminating the need for intrusions and crossings.

Section 23.207 Nonconforming Use Regulations

- (1) **Definition:** A nonconforming use is an active and actual use of land or structures, or both; legally established prior to the effective date of this Title or subsequent applicable amendment thereto which has continued the same use to the present, and which would not be permitted under the current terms of this Title. The definition under the provisions of this Section do not apply to Section 23.503 of Subchapter 23-5 of the City of Delavan Zoning Ordinance for Natural Resources Protection. (RC-287, 3/9/10)
- (2) **Continuance of a Nonconforming Use:** Any nonconforming use lawfully existing upon the effective date of this Title may be continued at the size and in a manner of operation existing upon such date, except as specified in this Section. Any legal use under the previous Zoning Ordinance which is made nonconforming by this Ordinance shall be considered a legal use with the granting of a conditional use permit by the Common Council. Any legal use under the previous zoning map which is made nonconforming by a change to the official zoning map may apply for a zoning map amendment (per Section 24.903) to an appropriate zoning district to be granted legal conforming use status. (C-735, 1/21/97)
- (3) **Modification of a Nonconforming Use:**
 - (a) Except as permitted in (b), below, a nonconforming use shall not be expanded, or changed to another nonconforming use; unless such modification would make the nonconforming use have a more desirable effect in terms of implementing the purpose of this Title (as determined by the Zoning Administrator). If such a modification occurs, said use shall not be modified back to the original nonconforming use, or to any other nonconforming use which does not better accomplish the purpose of this Title.
 - (b) A nonconforming nonresidential use which is not served by public sanitary sewer and/or public water may be permitted to expand without being served by public sanitary sewer and/or public water if said facilities are not available within 1,000 feet of the subject property, and upon the granting of a conditional use permit per the requirements of Section 24.905.
- (4) **Discontinuance of a Nonconforming Use:** When any nonconforming use of any structure or land is discontinued for a period of 12 months, or is changed into a conforming use, any future use of said structure or land shall be in complete conformity with the provisions of this Title.
- (5) **Maintenance of a Nonconforming Use:** The normal maintenance of a structure or land containing or related to a nonconforming use is permitted, including necessary repairs and incidental alterations which do not exacerbate the adverse impacts of the nonconforming use in relation to the purpose of this Title. In no instance shall said repairs exceed over the life of the structure, 50% of the present equalized assessed value of said structure or property prior to said repairs.
- (6) **Nonconforming Lots, Structures, and Buildings:** See Sections 23.307, 23.408 and 23.409.

- (7) **Wetland Nonconforming Uses:** Notwithstanding Section 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction, renovating, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this ordinance adopted pursuant to Section 62.231 of the Wisconsin Statutes, or of an environmental control facility in existence on May 7 1982, related to that structure, is permitted pursuant to Section 62.231(5) of the Wisconsin Statutes. Section 62.23(7)(h), however, applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this ordinance or amendment.
- (8) **Conversion of Legal, Non-Conforming Uses to a Conditional Use.** Upon petition of the property owner, the City Council may approve, as a conditional use, a change of a legal, non-conforming use to a conditional use provided the City Council determines that the proposed conditional use would result in no greater degree of non-conformity than existed prior to said approval, and subject to such other conditions as the City Council may impose in order to reduce the impact of said use on adjoining property owners or on the City of Delavan or such other conditions as the City Council may deem necessary in order to fulfill the intent and purpose of the City of Delavan zoning ordinance. (RC-193, 11/9/04)

Section 23.208 Group Developments

- (1) **Definition:** A group development is any development containing 2 or more structures containing principal land uses (as listed in Table 23.203) on the same lot, and/or any single structure on a single lot which contains 5 or more dwelling units or 2 or more non-residential uses. Common examples of group developments include 6-unit apartment buildings, apartment complexes, condominium complexes, shopping centers, and office centers. (One- building office structures, one-building commercial strip centers, 4-unit apartment buildings, and other land uses in which each lot contains only 1 structure and where each residential building contains 4 or fewer dwelling units, are not group developments, even though such developments may contain parcels under common ownership.)
- (2) **Regulation of Group Developments:** Group developments are permitted as conditional uses in all zoning districts. Any land use which is permitted within the applicable zoning district(s) is permitted to locate within a group development. The land use regulations of this Section, as well as Section 23.206 and all other applicable provisions of this Title shall apply to the group development. The requirements of Section 24.905 shall apply to the review of proposals for group developments.
- (3) **Specific Development Standards for Group Developments**
- (a) All required off-street parking spaces and access drives shall be located entirely within the boundaries of the group development.
 - (b) Each individual land use shall have a rear or side entrance that is accessible to a loading or service drive. Said service drive shall have a minimum width of 26 feet. Said service drive shall not be part of the vehicle circulation network used by customers.
 - (c) The development shall contain a sufficient number of waste bins to accommodate all trash and waste generated by the land uses in a convenient manner.

(d) All development located within a group development shall be located so as to comply with the intent of this Title regarding setbacks of structures and buildings from lot lines. As such, individual principal and accessory structures and buildings located within group developments shall be situated within building envelopes which serve to demonstrate complete compliance with said intent. Said building envelopes shall be depicted on the site plan required for review of group developments. The use of this approach to designing group developments will also ensure the facilitation of subdividing group developments in the future, (if such action is so desired).

(4) Discrimination Against Condominium Forms of Ownership

It is not the intent of this Section, nor any other provision of this Title, to discriminate against condominium forms of ownership in any manner which conflicts with Wisconsin Statutes 703.27. As such, the provisions of this Section are designed to ensure that condominium forms of ownership are subject to the same standards and procedures of review and development as other physically identical forms of development.

SUBCHAPTER 24-9: ADMINISTRATION AND ENFORCEMENT

Section 24.931 Purpose of Administrative Regulations

The purpose of this portion of the Subchapter is to establish the administrative and enforcement framework for the application of this Title.

Section 24.932 Zoning Administrator

- (1) **Designation:** The Building Inspector or a designee of the Building Inspector is hereby designated as the administrative and enforcement officer for the provisions of this Code and is also herein referred to as the Zoning Administrator. The duty of the Zoning Administrator is to interpret and administer this Code and to issue, after on-site inspection, all permits required by this Code.

- (2) **Duties:** The provisions of this Title shall be administered and enforced by the Zoning Administrator or a designee, who in addition thereto and in furtherance of said authority shall:
 - (a) Determine that all Detailed Site Analyses, Building Permits, Certificates of Occupancy, Sign Permits, Site Plans, (and their constituent plans) comply with all provisions of this Title.
 - (b) Conduct inspections of buildings, structures, waters and land to determine compliance with all provisions of this Title.
 - (c) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance. If, however he is refused entry after presentations of his identification, he may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin statutes. Conduct inspections of buildings, structures, waters and land to determine compliance with all provisions of this Title.
 - (d) Maintain permanent and current records of this Title, including but not limited to all maps, amendments, conditional uses, temporary uses, sign permits, site plans, occupancy permits, variances, appeals, interpretations, and applications therefor.
 - (e) Record the first floor and lowest floor (basement or crawlway) elevations of all structures erected, moved, altered, or improved in the floodland districts.
 - (f) Receive, file and forward all applications for any and all procedures governed by this Title to the designated official bodies.
 - (g) Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Code to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the City Attorney in a manner specified by him.
 - (h) Institute, in the name of the City of Delavan, any appropriate actions or proceedings against a violator of this Title, as provided by law.
 - (i) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
 - (j) Where useful, the Zoning Administrator, or his agent, may set marks on bridges or buildings or other markers which show the depth of the regional flood; or may set marks delineating the boundaries of wetlands.

- (k) Request assistance and cooperation from the City Police Department and City Attorney as deemed necessary.
- (l) Make available to the public, to the fullest extent possible, all reports and documents concerning the City's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed. The Common Council may set fees necessary to recover the cost of providing information to the public.
- (m) The Public Works Director may be designated Deputy Zoning Administrator by the Zoning Administrator.
- (n) Make interpretations regarding the provisions of this Title per Section 24.911.
- (o) Grant minor variations from the dimensional (setback, height, and area requirements of this Ordinance; up to a maximum variation of 10% for setbacks and height limitations; and up to a maximum variation of 10% or 1,000 square feet for area requirements (whichever is less); so long as the spirit and intent of the performance standards are preserved.

Section 24.933 Plan Commission

The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the City to the Common Council, other public officials and other interested organizations and citizens. The Commission, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys.

In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Code, its functions are primarily recommendatory to the Common Council pursuant to guidelines set forth in this Code as to various matters, and, always, being mindful of the intent and purposes of this Code. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion and of its own volition, conduct its own public hearing.

Section 24.934 Zoning Board of Appeals

The Zoning Board of Appeals shall have the power and duty to review and determine all matters relating to requested variances from the provisions of this Title (see Section 24.910); or appeals regarding an interpretation of the Zoning Administrator of the provisions of this Title (see Section 24.911 and 24.912).

- (1) **Establishment and Membership:** A Zoning Board of Appeals is hereby established. The Zoning Board of Appeals shall consist of five (5) members appointed by the Mayor, subject to confirmation by the Common Council, for three (3) years, except that of those first appointed, one shall serve for one year; two for two years. The members shall serve without compensation and shall be removable by the Mayor for cause upon written charges and after public hearing. The Mayor shall designate one of the members chairman. The Mayor shall appoint subject to confirmation of the Council for staggered terms of three (3) years, two alternate members of such board, in addition to the five members above provided for. Annually, the Mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the board refuses or declines to vote, is disqualified because of

interest, or when a member is absent. The second alternate shall so act when the first alternate so refuses or declines to vote, is disqualified because of interest or is absent or when more than one member so refuses or declines, is disqualified, or is absent. Other provisions herein appearing, with regard to removal and filling of vacancies, shall apply to such alternates. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. Appointments shall be made at the organizational meeting the Third Tuesday in April. Terms of office shall commence the first day of May. The City Clerk shall serve as Secretary of the Board. The Board of Appeals may employ other employees.

- (2) **Organization:** The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman, and at such other times as the Board of Appeals may determine. The Chairman, or in his absence an elected Acting Chairman, may administer oaths and compel the attendance of witnesses. All meeting shall be open to the public.

The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each questions, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals, which is the City Clerk's office, and shall be a public record.

(3) **Powers**

- (a) The Board of Appeals shall have the following powers:
1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 2. To hear and decide special exceptions to the terms of this Code upon which the Board of Appeals is required to pass.
 3. To authorize, upon appeal in specific cases, such variance from the terms of this Code as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
 4. Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this Code, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 5. The powers set forth in Section 23.503 of Subchapter 23-5 of the City of Delavan Zoning Ordinance for Natural Resources Protection. (RC-287, 3/9/10)
- (b) In exercising the above listed powers, the Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator or other administrative officer from whom the appeal is taken. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this Code.

- (c) In addition to the foregoing powers, the Board of Appeals shall have the following specific powers:
 - 1. To interpret the provisions of this Code in such a way as to carry out the intent and purpose of the plan, as shown on the Zoning Map accompanying and made a part of this Code, where the street layout actually on the ground varies from the street layout on the aforesaid map.
 - 2. The Board of Appeals shall have the power to call on any other city department for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance as may be reasonably required.
 - (d) Except as specifically provided, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such districts.
- (4) **Appeals:** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Delavan affected by any decision of the administrative officers. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest, and shall decide to same within a reasonable time.
- (5) **Notice of Hearing:** The Board of Appeals shall fix a reasonable time and place for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) five days prior to the hearing to the fee owners of record of all land within 300 feet of any part of the subject building or premises involved in the appeal.
- (6) **Hearings:** Hearings on appeals shall be public and shall be conducted according to the rules of procedure adopted by the Board. At the hearing, the appellant or applicant may appear in person, by agent or by attorney. Decisions of the Board following public hearing may be made either in public or closed session as the Board shall determine.
- (7) **Findings**
 - (a) Findings of fact and reasons for all actions taken shall be reduced by the Board to writing in the minutes of the proceedings.
 - (b) In the case of appeal based on variance, for the same to be granted the findings shall affirmatively show the following together with the fact and the grounds therefor:
 - 1. A literal enforcement of the terms of the Zoning Code would result in practical difficulty or unnecessary hardship to the appellant.
 - 2. The variance is not contrary to the public interest and will not endanger public safety.
 - 3. The variance is in accord with the spirit of the Zoning Code.
 - 4. The variance will cause substantial justice to be done.

- (c) Further to be considered by the Board in case of appeal based on variance, in arriving at its reasons and grounds for the above required findings, are the following:
1. **Preservation of Intent:** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
 2. **Exceptional Circumstances:** There may be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general recurrent nature as to suggest that the Zoning Code should be changed.
 3. **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance:** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 4. **Preservation of Property Rights:** Such variance may be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 5. **Absence of Detriment:** Such variance should not create substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this Code or the public interest.
- (d) Additional Requirements in Floodland Districts. No variance shall be granted when it is found:
1. Filling and development contrary to the purpose and intent of the Floodway District (FW) and the Floodplain District (FP) would result.
 2. A change in the boundaries of the Floodway District (FW), Floodplain District (FP), or the Floodfringe District (FF) would result.
 3. A lower degree of flood protection than a point two (2) feet above the 100-year recurrence interval flood for the particular area would result.
 4. Any action contrary to the provisions of Subchapter NR-116 of the Wisconsin Administrative Code would result.

(8) **Wetland Mapping Disputes** (RC-287, 3/9/10)

- (a) **Wetland Disputes:** Whenever the Board of Appeals is asked to interpret a shoreland-wetland overlay district boundary where an apparent discrepancy exists between the City's Final Wetland Inventory Map and actual field conditions, the City shall contact the Wisconsin Department of Natural Resources (DNR) to determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was incorrectly mapped as a wetland, the Board of Appeals shall direct the City Plan Commission to initiate appropriate action to rezone the property within a reasonable amount of time.

(9) **Decision:** The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, and City Plan Commission.

- (a) Conditions may be placed upon any Zoning Permit ordered or authorized by this Board.
- (b) Variances, substitutions, or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

- (c) Applicants receiving variances in floodlands shall be notified, in writing, by the Board of Appeals that increased flood insurance premiums and risk to life or property may result from the granting of the variance. The Board shall keep a record of the notification in its files.
- (10) **Notice to the DNR:** The Zoning Board of Appeals shall transmit a copy of each application for a variance to conservancy regulations in the lakeshore portion of the shoreland-wetland overlay district and a copy of all shoreland-wetland appeals, to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to variances to shoreland-wetland regulations and a copy of all decisions to shoreland-wetland appeals, shall be transmitted to the DNR within 10 days of the date of such decision. (RC-287, 3/9/10)
- (11) **Review by Court of Record:** Any persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board.

Section 24.935 Fees

(1) **Fees for Procedures Requested by a Private Party:** The following fees are hereby established and required:

(a) Text Amendment (per Section 24.902):	\$250.00*
(b) Zoning Map Amendment (Section 24.903):	\$250.00*
(c) Special Use (per Section 24.904):	\$50.00*
(d) Conditional Use (per Section 24.905):	\$250.00*
(e) Temporary Use (per Section 24.906):	\$50.00*
(f) Sign Permit (per Section 23.802):	\$40.00 min. <u>or</u> \$.35/sf of sign area*
(g) Site Plan (per Section 24.908):	\$250.00*
(h) Certificate of Occupancy (per Section 24.909):	
Residential	\$45.00*
Commercial	\$85.00*
(i) Variance (per Section 24.910):	\$250.00*
(j) Interpretation (per Section 24.911):	\$100.00*
(k) Appeal (per Section 24.912):	\$250.00*
(l) Filing or Recording Fee with City Clerk:	\$10.00 + actual recording fee
(m) Preliminary Plat:	See Section 14-1-90(d)
(n) Final Plat:	See Section 14-1-90(e)
(o) Swimming Pools:	\$25.00
(p) Fences:	\$35.00
(q) Certified Survey Map Review:	\$250.00*
(r) Reapplication fee:	\$50.00
(s) Gas/Fuel tanks-install/remove:	\$30.00
(City does not provide State Inspection)	
(t) Wellhead Protection:	\$50.00*

* Base fee may be modified by Subsection (4), below. (RC-236, 12/11/07)

(2) **Fees for Procedures Requested by the City of Delavan:** There shall be no fee in the case of applications filed in the public interest by the Common Council or the Plan Commission, other agency, or official of the City of Delavan.

(3) **Payment of Fees:** Fees shall be payable at the time applications are filed with the appropriate officer of the City (per the requirements of this Title), and are not refundable.

(4) **Professional Consultant Review Services:** The City may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the City's review of a proposal coming before the Plan Commission. The City may apply the charges for these services to the Petitioner. The City will require the Petitioner to sign a professional consultant review services form. The City may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until such fees are paid by the Petitioner. The submittal of a development proposal application or petition by a Petitioner shall be construed as an agreement to pay for such professional review services applicable to the proposal. Review fees which are applied to a Petitioner, but which are not paid, may be assigned by the City as a special assessment to the subject property.

Section 24.936 Violations and Penalties

- (1) **Violation of this Title:** It shall be unlawful to construct or use any land, engage in any development activity (including disruption of protected vegetation), or construct or use any structure, land or water in violation of any of the provisions of this Title, or otherwise neglect, refuse or fail to comply with this Title's requirements. Any person who violates or fails to comply with any of the provisions of this Title shall, upon conviction thereof, be subject to the penalties set forth in Subsection (2), below, and in addition, shall pay all costs and expenses, including actual reasonable attorney and other fees involved in the case. Each day a violation exists or continues shall constitute a separate offense.
- (2) **Penalties:** Any person, firm, or corporation who fails to comply with the provisions of this Code or any order of the Zoning Administrator shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$200.00 and costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.
- (3) **City Promulgated Correction of Violation:** In addition to any other penalty imposed by this Subchapter for a violation of the provisions of this Title, the City reserves and maintains the continued right to abate violations of this Title.
 - (a) **Hazardous Condition Caused by Violation of this Title:** If the Zoning Administrator determines that a violation of this Title exists, and further determines that the nature of such violation poses a great and immediate danger to the public health, safety, peace, morals or decency, the Zoning Administrator shall cause the violation to be abated. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred per Subsection (c), below. The Zoning Administrator is hereby authorized to abate a violation of this Title.
 - (b) **Non-Hazardous Condition Caused by Violation of this Title:** If the Zoning Administrator determines that a violation of this Title exists, and further determines that the nature of such violation is not such as to pose great and immediate danger to the public health, safety, peace, morals or decency, the Zoning Administrator shall serve written notice by Registered Mail on the current owner of the property (as indicated by current City of Delavan tax records) on which said violation is occurring to remove said violation within ten working days. If such violation is not removed within such ten working days, the Zoning Administrator shall cause the violation to be abated per Subsection (a), above. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred per Subsection (c), below.
 - (c) **Cost of Abatement:** In addition to any other penalty imposed by this Subchapter for a violation of the provisions of this Title, the cost of abating a violation of this Title per Subsections (a) and/or (b), above, shall be collected as a debt from the owner of the property on which said violation has occurred. An account of the expenses incurred by the City to abate the violation shall be kept and such expenses shall be charged to and paid by the property owner. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by Registered Mail, and shall be payable within 30 calendar days from the receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter such charges onto the tax roll as a special tax as provided by State Statute 66.615(5).

APPENDIX G

**NR 812.45, WISCONSIN ADMINISTRATIVE CODE AND
S. 283.89, WISCONSIN STATUTES**

3. The existence of a well located in a special well casing depth area.

4. The existence of a two-wire submersible pump, manufactured prior to 1979, in a well.

5. Evidence of some corrosion, but not serious corrosion, on the visible portion of the well casing pipe.

6. The existence of a well having an inaccessible or difficult location with respect to any future well construction or rehabilitation work.

7. The existence of a well having an inaccessible or difficult location with respect to any future pump installation work.

8. The existence of a non-vermin proof well cap or well seal. The cap or seal is required to be replaced with an approved vermin-proof cap or seal whenever any well drilling or pump installing work is done on the well and pressure system which involves removal of the well cap or well seal.

9. The inspector may note any concerns regarding the condition, capacity or performance of the well and pressure system in the inspection, including well or pump yield, though it is not required for a property transfer well inspection.

(d) The inspector shall indicate whether the well and pressure system comply with this chapter; comply with this chapter with the exception of needing a more comprehensive search or additional research; or does not comply with this chapter.

History: CR 13-099: cr. Register September 2014 No. 705, eff. 10-1-14.

Subchapter VII — Citations

NR 812.45 Citations. The department may take enforcement action against any person who violates any of the provisions listed in sub. (1). The department shall consider the severity, duration, frequency, and environmental or health risks of the violation. The department will evaluate and address violations in accordance with the department stepped enforcement process. The department shall provide written notice of a violation and provide an opportunity to meet pursuant to s. 280.98 (4), Stats., before issuance of a citation.

(1) Citations may be issued for violations relating to any of the following:

(a) Licensing and registration as provided in this chapter, ch. 280, Stats., or s. NR 812.26 (9).

(b) Disinfection requirements, as provided under ss. NR 812.22 (4), 812.27 (5), 812.41 (1), or 812.42 (13).

(c) Sampling and reporting requirements, as provided under ss. NR 812.04 (2), 812.09 (4) (a) 3., 812.10 (11) or (12), 812.22 (6), (7), (8), (9), or (10), 812.26 (3) or (8), 812.27 (6), 812.41 (3) or (4), 812.42 (13), or 812.44 (3) or (4).

(d) Water systems that were installed before February 1, 1991, as provided under s. NR 812.42.

(e) Well or drillhole filling and sealing, as provided under s. NR 812.09 (4) (a) 5. or 812.26.

(2) Prior to issuing a citation under par. (b), the department shall do all of the following:

(a) Issue a written warning outlining the violation.

(b) Schedule an enforcement conference with the alleged violator. The alleged violator is allowed to bring a representative to the enforcement conference.

(3) If the alleged violator does not attend the enforcement conference or make alternative arrangements to the department's satisfaction, the department shall consider the requirement of s. 280.98, Stats., to be met, and shall base its enforcement decision on all available information.

History: CR 13-099: cr. Register September 2014 No. 705, eff. 10-1-14; correction in numbering made under 2. 13.92 (4) (b) 1., Stats., correction in (intro.) made under s. 13.92 (4) (b) 7., Stats., Register September 2014 No. 705.

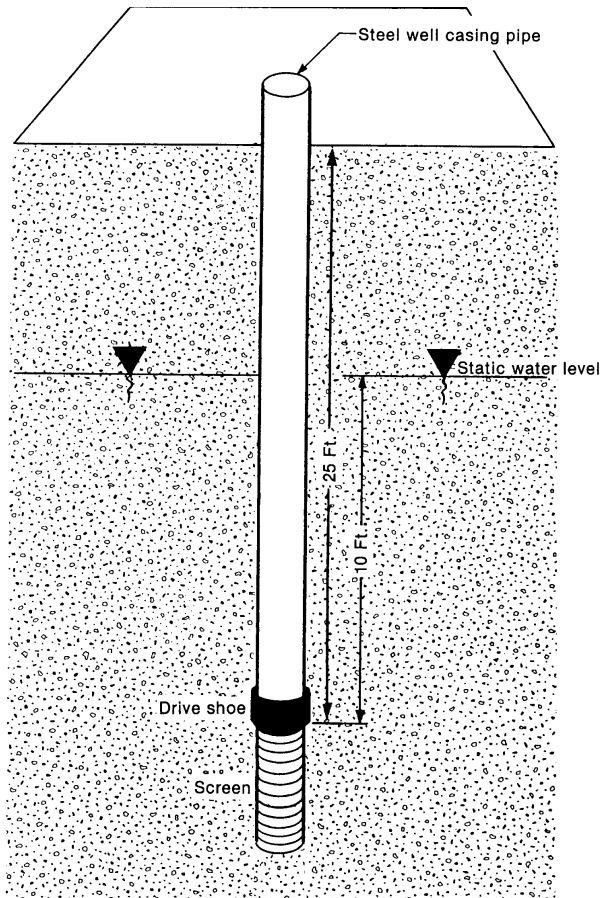


Figure 51. Line A. Percussion methods for low capacity* and nonpotable high capacity wells in unconsolidated aquifers overlain by caving material. Well casing pipe shall extend to the 25-foot depth or 10 feet below the static water level, whichever is greater. The well casing pipe shall be 2 inches minimum diameter and may be driven from the ground surface.

(2) All plans submitted under s. 281.41 after July 22, 1973, for new treatment works, or modifications of treatment works, which will be eligible for construction grants or loans under s. 281.55 or 281.57 or under ss. 281.58 and 281.59, shall contain:

(a) Adequate analysis and data establishing that the works or modification is the most cost efficient method of meeting limitations and standards required of the facility; and

(b) A feasibility plan on using ultimate disposal of pollutants to land rather than to air or the waters of the state.

History: 1973 c. 74; 1979 c. 34 s. 2102 (39) (d); 1987 a. 399; 1989 a. 366; 1995 a. 227 s. 879; Stats. 1995 s. 283.85.

283.87 Liability for water pollution. (1) DEPARTMENT MAY RECOVER COSTS. In an action against any person who violates this chapter or any provision of s. 29.601 or chs. 30, 31, 281, 285 or 289 to 299 relating to water quality the department may recover the cost of removing, terminating or remedying the adverse effects upon the water environment resulting from the unlawful discharge or deposit of pollutants into the waters of the state, including the cost of replacing fish or other wildlife destroyed by the discharge or deposit. All moneys recovered under this section shall be deposited into the environmental fund.

(2) ADVERSE EFFECTS. The department may introduce evidence of the environmental pollution that resulted from the unlawful discharge or deposit and evidence of the potential of the water environment for public use if the unlawful discharge or deposit had not occurred in order to assist the court in determining the adverse effects upon the water environment resulting from the unlawful discharge or deposit and in determining the amount of liability under sub. (1).

(3) ADMINISTRATION OF AWARD. The court shall administer an award made under this section. An award made under this section may be used to remove, terminate or remedy the adverse effects of the discharge or deposit, to restore or develop the water environment for public use or to provide grants to municipalities consistent with any court order.

(4) AIDS TO MUNICIPALITIES; ENVIRONMENTAL DAMAGE COMPENSATION. The department may make grants to any county, city, village, or town for the acquisition or development of recreational lands and facilities from moneys appropriated under s. 20.370 (4) (dv). Use and administration of the grant shall be consistent with any court order issued under sub. (3). A county, city, village, or town which receives a grant under this section is not required to share in the cost of a project under this section.

History: 1973 c. 74; 1979 c. 221; 1995 a. 27; 1997 a. 248; 1999 a. 150 s. 375; 2005 a. 347; 2017 a. 59.

Note: 2005 Wis. Act 347, which affected this section, contains extensive explanatory notes.

283.89 Enforcement. (1) Except as provided in sub. (2m), whenever on the basis of any information available to it the department finds that any person is violating this chapter, any rule adopted thereunder or any term or condition of any permit issued pursuant to this chapter, including general permits issued under s. 283.35, the department shall refer the matter to the department of justice for enforcement under s. 283.91.

(2) The department of justice shall initiate the legal action requested by the department under sub. (1). In any action commenced by it under this subsection, the department of justice shall, prior to stipulation, consent order, judgment or other final disposition of the case, consult with the department for the purpose of determining the department's views on final disposition. The department of justice shall not enter into a final disposition different than that previously discussed without first informing the department.

(2m) If the department finds a violation of s. 283.33 (1) to (8) for which a person is subject to a forfeiture under s. 283.91 (2), the department may issue a citation and, if the department does issue a citation, the procedures in ss. 23.50 to 23.99 apply.

(3) In any criminal action commenced under s. 283.91, the department of justice may request the assistance of the district

attorney of any county in which the violation occurred, and the district attorney shall provide the requested assistance.

(4) Any civil action on a violation shall be commenced in the circuit court for the county in which the violation occurred in whole or in part, unless all the parties consent to the commencement of the action in the circuit court for Dane County. Any criminal action on a violation shall be commenced in the circuit court for the county in which the violation occurred.

History: 1973 c. 74; 1979 c. 34; 1993 a. 16; 1995 a. 227 s. 881; Stats. 1995 s. 283.89; 1997 a. 193; 2001 a. 16.

283.91 Civil and criminal remedies. (1) The department of justice, upon a referral pursuant to s. 283.89, may initiate a civil action for a temporary or permanent injunction for any violation of this chapter or any rule promulgated thereunder or of a term or condition of any permit issued under this chapter.

(2) Any person who violates this chapter, any rule promulgated under this chapter, any term or condition of a permit issued under this chapter, or any rule promulgated or order issued under s. 200.45 (1) or (2) shall forfeit not less than \$10 nor more than \$10,000 for each day of violation, except that the minimum forfeiture does not apply if the point source at which the violation occurred is an animal feeding operation.

(3) Any person who willfully or negligently violates this chapter, any rule promulgated under this chapter or any term or condition of a permit issued under this chapter shall be fined not less than \$10 nor more than \$25,000 per day of violation, or imprisoned for not more than 6 months or both. If the conviction is for a violation committed after a first conviction of such person under this subsection, the person shall be fined not less than \$10 nor more than \$50,000 per day of violation, or imprisoned for not more than one year in the county jail or both. The minimum forfeiture does not apply if the point source at which the violation occurred is an animal feeding operation. In determining the amount of the fine under this subsection, the court shall assess an amount which represents an actual and substantial economic deterrent to the action which was the basis of the conviction.

(4) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter shall be fined not less than \$10 nor more than \$10,000 or imprisoned for not more than 6 months or both.

(5) In addition to all other civil and criminal penalties prescribed under this chapter, the court may assess as an additional penalty a portion or all of the costs of the investigation, including monitoring, which led to the establishment of the violation. The court may award the department of justice the reasonable and necessary expenses of the prosecution, including attorney fees. The department of justice shall deposit in the state treasury for deposit into the general fund all moneys that the court awards to the department or the state under this subsection. The costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

(6) For the purposes of subs. (3) and (4), the term "person" means in addition to the definition under s. 283.01 (11), any responsible corporate officer.

History: 1973 c. 74; 1983 a. 189 s. 329 (16); 1987 a. 157; 1989 a. 337; 1995 a. 27; 1995 a. 227 s. 876; Stats. 1995 s. 283.91; 1999 a. 150 s. 672; 2001 a. 109; 2003 a. 309.

283.93 Environmental pollution. Regulatory actions taken by the department to eliminate or control environmental pollution shall be exempt from the provisions of s. 1.11, other than:

(1) Involvement in federal financial assistance grants for the construction of publicly owned treatment works;

(2) Financial assistance under s. 281.55 or 281.57 or under ss. 281.58 and 281.59; and