

TOWN OF GRAND CHUTE
ORDINANCE, SERIES OF O-14-2017

AN ORDINANCE AMENDING EXISTING CHAPTER 463 OF THE CODE OF GENERAL ORDINANCES FOR THE TOWN OF GRAND CHUTE, OUTAGAMIE COUNTY, WISCONSIN, BY REPEALING AND RECREATING ARTICLES II OF THIS CHAPTER, PERTAINING TO STORMWATER MANAGEMENT.

WHEREAS, Chapter 463, Article II of the Town of Grand Chute Municipal Code regulates stormwater management; and,

WHEREAS, The Town of Grand Chute has determined the need to amend said Municipal Code for purposes of long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment.

NOW THEREFORE BE IT ORDAINED by the Town Board of Supervisors of the Town of Grand Chute, Outagamie County, Wisconsin, that Chapter 463, Article II of the Town of Grand Chute Municipal Code be hereby repealed and recreated as shown on the attached Exhibit "A".

If any provision of this ordinance is invalid or unconstitutional, or the application of this ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this ordinance, which can be given effect without the invalid or unconstitutional provision, or its application.

Approved and adopted this 5 day of September, 2017

Number Voted For 4

Number Voted Against 0

Town of Grand Chute

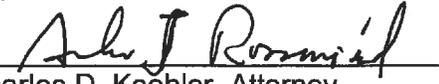


David A. Schowalter
Town Chairman



Karen L. Weinschrott
Town Clerk

Approved as to form:

for 

Charles D. Koehler, Attorney
Herrling Clark Law Offices
800 N. Lynndale Drive
Grand Chute, WI 54914

Exhibit "A"

TOWN OF GRAND CHUTE

ORDINANCE SERIES OF O-14-2017

AN ORDINANCE AMENDING EXISTING CHAPTER 463 OF THE CODE OF GENERAL ORDINANCES FOR THE TOWN OF GRAND CHUTE, OUTAGAMIE COUNTY, WISCONSIN, BY REPEALING AND RECREATING ARTICLE II OF THIS CHAPTER, PERTAINING TO STORMWATER MANAGEMENT.

ARTICLE II

Stormwater Management

§ 463-13. Authority; effect on other laws.

- A. This article is adopted by the Town of Grand Chute Board under the authority granted by § 60.627, Wis. Stats. This article supersedes all provisions of an ordinance previously enacted in accordance with § 60.62, Wis. Stats. that relate to post-construction stormwater management regulations. Except as otherwise specified in § 60.627, Wis. Stats., the provisions in § 60.62, Wis. Stats. apply to this article and to any amendments to this article.
- B. The provisions of this article are deemed not to limit any other lawful regulatory powers of the same governing body.
- C. The Town of Grand Chute Board hereby designates the Plan Commission and the Community Development Department to administer and enforce the provisions of this article.
- D. The requirements of this article do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:
 - (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under §§ 281.16 and 283.33, Wis. Stats.
 - (2) Targeted performance standards promulgated in rules by the Wisconsin Department of Natural Resources under § NR 151.004, Wis. Adm. Code.

§ 463-14. Findings of fact.

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

- A. Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

- B. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational uses, and water supplies by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- C. Alter wetland communities by changing wetland hydrology and increasing pollutant loads.
- D. Reduce the quality of groundwater by increasing pollutant loading.
- E. Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- F. Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- G. Undermine floodplain management efforts by increasing the incidence and levels of flooding.

§ 463-15. Purpose and intent.

- A. Purpose. The general purpose of this article is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
 - (1) Further the maintenance of safe and healthful conditions.
 - (2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and, promote sound economic growth.
 - (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and, prevent conditions that endanger downstream property.
- B. Intent. It is the intent of the Town of Grand Chute Board that this article regulates post-construction stormwater discharges to waters of the State. This article may be applied on a site-by-site basis. The Town of Grand Chute Board recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this article is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the State. Where such plans are in conformance with the performance standards developed under § 281.16, Wis. Stats., for regional stormwater management measures and have been approved by the Town of Grand Chute Board, it is the intent of this article that the approved plan be used to identify post-construction management measures acceptable for the community.

§ 463-16. Applicability and jurisdiction.

A. Applicability.

- (1) Where not otherwise limited by law, this article applies to all post-construction sites, unless the site is otherwise exempt pursuant to § 463-16A(2).
- (2) A post-construction site that meets any of the following criteria is exempt from the requirements of this article:
 - (a) One- and two-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one acre of disturbance.
 - (b) Non-point discharges from agricultural activity areas.
 - (c) Non-point discharges from silviculture activities.
 - (d) Mill and crush operations.
- (3) Notwithstanding the applicability requirements in § 463-16A(1), this article applies to post-construction sites of any size that, in the opinion of the administering authority, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.

B. Jurisdiction. This article applies to post-construction sites within the boundaries and jurisdiction of the Town of Grand Chute.

C. Exclusions. This article is not applicable to activities conducted by a state agency, as defined under § 227.01(1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under § 281.33(2), Wis. Stats.

D. Maintenance of effort. For a redevelopment site where the land disturbing construction activity will be replacing older development that was subject to post-construction performance standards of this article in effect on or after January 1, 2005, the responsible party shall meet either the water quality, peak discharge, infiltration, protective area, and petroleum sheen standards applicable to the older development, or the redevelopment standards of this article, whichever are more stringent.

§ 463-17. Definitions.

A. For the purposes of this article, the following shall apply as indicated throughout the article:

- (1) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

- (2) The present tense includes the future tense, and the singular includes plural.
- (3) The word "shall" is mandatory; the word "may" is permissive.
- (4) The word "used" or "occupied" also means intended, designed or arranged to be used or occupied.

B. Definition of terms. For the purpose of this article, the following terms are defined:

ADEQUATE SOD or SELF-SUSTAINING VEGETATIVE COVER

Maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

ADMINISTERING AUTHORITY

A governmental employee or their designees empowered under § 60.627, Wis. Stats., to administer this article. For the purpose of this article, it is the Town of Grand Chute Community Development Department, under guidance from the Plan Commission.

AGRICULTURAL ACTIVITY AREA

The part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

AGRICULTURAL PRODUCTION AREA

The part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

ATLAS 14

The National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.

AVERAGE ANNUAL RAINFALL

A typical calendar year of precipitation as determined by the Wisconsin DNR for users of models such as SLAMM, P8, or equivalent methodology. The average annual rainfall is chosen from a Wisconsin DNR publication for the location closest to the municipality.

BEST MANAGEMENT PRACTICES

Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State. Also referred to as "BMPs".

BUSINESS DAY

A day the office of the administering authority is routinely and customarily open for business.

CEASE AND DESIST ORDER

A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

COMBINED SEWER SYSTEM

A system for conveying both sanitary sewage and stormwater runoff.

COMMON PLAN OF DEVELOPMENT OR SALE

A development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

CONNECTED IMPERVIOUS

An impervious surface connected to the waters of the State via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.

CONSTRUCTION SITE

An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale.

DESIGN STORM

A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The TP-40, Type II, 24-hour design storms for the Town of Grand Chute are: 1-year, 2.2 inches; 2-year, 2.5 inches; 5-year, 3.3 inches; 10-year, 3.8 inches; 25-year, 4.4 inches; 50-year, 4.9 inches; and, 100-year, 5.3 inches. The Atlas 14, MSE4, 24-hour design storms for the Town of Grand Chute are: 1-year, 2.14 inches; 2-year, 2.45 inches; 5-year, 3.01 inches; 10-year, 3.51 inches; 25-year, 4.24 inches; 50-year, 4.85 inches; and, 100-year, 5.50 inches.

DEVELOPMENT

Residential, commercial, industrial, institutional, or other land uses and associated roads.

DIRECT CONDUITS TO GROUNDWATER

Wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, nonmetallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

DIVISION OF LAND

The creation, from one or more parcels or building sites, of additional parcels or building sites where such creation occurs at one time or through the successive partition within a five (5) year period.

DRY POND

A stormwater detention facility with perennial vegetation growth in the pond bottom. Water levels located above the pond bottom and vegetation growth fluctuate in response to rainfall events. Dry ponds are used for flood control, but not water quality treatment.

EFFECTIVE INFILTRATION AREA

The area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

EROSION

The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

EXCEPTIONAL RESOURCE WATERS

Waters listed in § NR 102.11, Wis. Adm. Code.

EXISTING DEVELOPMENT

Development in existence on January 1, 2005 or development for which a stormwater permit in accordance with Subch. III of § NR 216, Wis. Adm. Code was received on or before January 1, 2005.

EXTRATERRITORIAL

The unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

FILTERING LAYER

Soil that has at least a 3-foot deep layer with at least 20 percent fines; or, at least a 5-foot deep layer with at least 10 percent fines; or, an engineered soil with an equivalent level of protection as determined by the administering authority for the site.

FINAL STABILIZATION

The point in time when all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

FINANCIAL GUARANTEE

A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the administering authority by the responsible party to assure that requirements of the article are carried out in compliance with the stormwater management plan.

GOVERNING BODY

Town Board of Supervisors, County Board of Supervisors, City Council, Village Board of Trustees, or Village Council.

GROUNDWATER

Waters of the State, as defined in § 281.01(18), Wis. Stats., occurring in a saturated subsurface geological formation of rock or soil.

HIGH GROUNDWATER LEVEL OR SUBSURFACE SATURATION

Higher of either the elevation to which the soil is saturated as observed as a free water surface in an unlined hole, or the elevation to which the soil has been seasonally or

periodically saturated as indicated by soil color patterns throughout the soil profile, as defined in Technical Standard 1002, Site Evaluation for Stormwater Infiltration.

HIGHWAY

Has the meaning given in § 340.01(22), Wis. Stats.

HIGHWAY RECONDITIONING

Has the meaning given in § 84.013(1)(b), Wis. Stats.

HIGHWAY RECONSTRUCTION

Has the meaning given in § 84.013(1)(c), Wis. Stats.

HIGHWAY RESURFACING

Has the meaning given in § 84.013(1)(d), Wis. Stats.

IMPERVIOUS SURFACE

An area that releases as runoff, all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of surfaces that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed and constructed to encourage infiltration.

IMPERVIOUS SURFACE DISTURBANCE

Any land disturbing construction activity in which any new impervious surfaces are created or existing impervious surfaces are redeveloped.

IN-FILL

An undeveloped area of land or new development area located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur. In-fill does not include any undeveloped area that was part of a larger new development for which a stormwater permit in accordance with Subch. III of § NR 216, Wis. Adm. Code, was required to be submitted after January 1, 2005 to the Wisconsin Department of Natural Resources or Wisconsin Department of Safety and Professional Services (formerly Department of Commerce).

INFILTRATION

The entry and movement of precipitation or runoff into or through soil.

INFILTRATION SYSTEM

A device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices such as swales or roadside channels designed for conveyance and pollutant removal only.

LAND DISTURBING CONSTRUCTION ACTIVITY

Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of pollutants into the municipal separate storm sewer or waters of the state. Land disturbing construction activity includes clearing and grubbing,

demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling. Also referred to as “disturbance”.

MAINTENANCE AGREEMENT

A legal document that provides for long-term maintenance of stormwater management and best management practices.

MAXIMUM EXTENT PRACTICABLE

The highest level of performance that is achievable, but not equivalent to a performance standard identified within this article. Maximum extent practicable applies when the permit applicant demonstrates to the administering authority’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the permit applicant shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties. Also referred to as “MEP”.

MINOR RECONSTRUCTION OF A HIGHWAY

Reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening, and that does not include replacement of a vegetated drainage system with a non-vegetated drainage system except where necessary to convey runoff under a highway or private road or driveway.

MSE4 DISTRIBUTION

A specific precipitation distribution developed by the USDA, NRCS, using precipitation data from Atlas 14.

NAVIGABLE WATERS AND NAVIGABLE WATERWAY

Has the meaning given in § 30.01(4m), Wis. Stats.

NEW DEVELOPMENT

That portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

OFF-SITE

Located outside the property boundary described in the permit application.

ON-SITE

Located within the property boundary described in the permit application.

ORDINARY HIGH-WATER MARK

Has the meaning given in § NR 115.03(6), Wis. Adm. Code.

OUTSTANDING RESOURCE WATERS

Waters listed in § NR 102.10, Wis. Adm. Code.

PEAK DISCHARGE

The highest rate of stormwater flow that occurs at a specific location and for a specific storm event. Peak discharge is measured in cubic feet per second of stormwater flow.

PERCENT FINES

The percentage of a given sample of soil that passes through a # 200 sieve.

PERFORMANCE STANDARD

A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

PERMIT

A written authorization by the administering authority to the applicant, granting permission to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the State.

PERMIT ADMINISTRATION FEE

A sum of money paid to the administering authority by the permit applicant for the purpose of recovering the expenses incurred by the authority in administering the permit.

PERVIOUS SURFACE

An area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, fields, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

POLLUTANT

Has the meaning given in § 283.01(13), Wis. Stats.

POLLUTION

Has the meaning given in § 281.01(10), Wis. Stats.

POST-CONSTRUCTION SITE

A construction site after the completion of land disturbing construction activity and final site stabilization.

POST-DEVELOPMENT

The extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.

PRE-DEVELOPMENT

The extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed

in an environmentally sound manner.

PREVENTIVE ACTION LIMIT

The meaning given in § NR 140.05(17), Wis. Adm. Code.

PROTECTIVE AREA

An area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. For the purposes of this article, a protective area does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

REDEVELOPMENT

That portion of a post-construction site where existing impervious surfaces from older development are being reconstructed, replaced, or reconfigured to accommodate new development. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development (existing) condition is classified as redevelopment. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

RESPONSIBLE PARTY

Any entity holding fee title to a property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.

ROUTINE MAINTENANCE

That portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower ½ of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower ½ of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this article, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

RUNOFF

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

SEDIMENT

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

SEPARATE STORM SEWER

A conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- A. Is designed or used for collecting water or conveying runoff.
- B. Is not part of a combined sewer system.
- C. Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- D. Discharges directly or indirectly to waters of the State.

SILVICULTURE ACTIVITIES

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

SITE

The entire area included in the legal description of the property on which the land disturbing construction activity occurred.

STOP-WORK ORDER

An order issued by the administering authority that requires all construction activity on the site be stopped.

STORMWATER MANAGEMENT PLAN

A comprehensive plan designed to reduce the discharge of pollutants from stormwater following completion of the land disturbance construction activity and after the site has undergone final stabilization.

STORMWATER MANAGEMENT SYSTEM PLAN

A comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

TARGETED PERFORMANCE STANDARD

A performance standard that will apply in a specific area, where additional practices beyond those contained in this article, are necessary to meet water quality standards. A total maximum daily load is an example of a targeted performance standard.

TECHNICAL STANDARD

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

TOP OF CHANNEL

An edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the State, where the slope of the land begins to be less than 12% continually for at

least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

TOTAL MAXIMUM DAILY LOAD

The amount of pollutants specified as a function of one or more water quality parameters that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard. Also referred to as "TMDL".

TP-40

The Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

TR-55

The United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this article.

TRANSPORTATION FACILITY

A public street, a public road, a public highway, a railroad, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under § 85.095(1)(b), Wis. Stats. Transportation facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Wisconsin Department of Natural Resources pursuant to § 281.33, Wis. Stats.

TYPE II DISTRIBUTION

A rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973", which is incorporated by reference for this article. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

WATERS OF THE STATE

Has the meaning given in § 283.01(20), Wis. Stats.

WET POND

A stormwater detention facility with a permanent pool of water in the pond bottom. Water levels located above the permanent pool of water fluctuate in response to rainfall events. Wet ponds are used for flood control and potentially for water quality. Wet ponds are required to satisfy Code 1001 Wet Detention Pond Technical Standard to receive water quality credit.

§ 463-18. Technical standards.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, fueling/vehicle maintenance, and swale treatment components of stormwater practices needed to meet the water quality standards of this article:

- A. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under Subch. V of § NR 151, Wis. Adm. Code.
- B. Technical standards and guidance identified within the Town of Grand Chute Stormwater Reference Guide.
- C. Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the administering authority.
- D. In this article, the following year and location has been selected as average annual rainfall(s): Green Bay, 1969 (Mar. 29-Nov. 25).
- E. Stormwater facilities located within an airport zoning district shall be designed, operated, and maintained in conformance with Chapter 10 of the Outagamie County Code of Ordinances.
- F. Safety standards in addition to § NR 151, Wis. Adm. Code. The following additional standards shall apply to any wet pond constructed on a parcel or site located in a residential zoning district or adjoining a residential zoning district, a school, daycare facility, or similar use:
 - (1) To achieve water quality and peak discharge requirements, the applicant may use a wet pond design as a stormwater treatment facility. The wet pond design shall meet the following safety specifications:
 - (a) Side slope to wet pond of 4:1 or flatter.
 - (b) Underwater safety shelf measuring eight (8) feet wide or more with an average water depth of less than 18 inches.
 - (c) Vegetation or plantings installed in the safety shelf and side slope in accordance with Town specifications and policies.
 - (d) Grating covers for all structure inlets and outlets greater than six (6) inches in size.
 - (2) The stormwater treatment facility maintenance plan shall identify the maintenance procedures for the vegetation so as to discourage access to the wet pond.
 - (3) If an applicant for a post-construction runoff permit cannot meet both the water quality and peak discharge standards and also the wet pond safety specifications described herein, the applicant shall at a minimum meet the water quality and peak discharge standards and submit a wet pond safety report. This report shall identify any variance from the safety specifications and identify any supplemental safety features that are incorporated into the design of the wet pond as a result. An applicant is not required to erect a fence around a wet pond; however, the applicant may include a fence in the safety features for the facility design. Any fence to be constructed as a wet pond safety feature shall be subject to the provisions of § 535-53 of the Town of Grand Chute Municipal Code and of Chapter 40 of the Outagamie County Code of Ordinances.

(4) Ponds created for purposes other than stormwater management are exempt from this article.

§ 463-19. Performance standards.

- A. Responsible party. The responsible party shall develop and implement a post-construction stormwater management plan that incorporates the requirements of this section.
- B. Plan. A written stormwater management plan shall be developed and implemented by the responsible party in accordance with § 463-21 of this article, and shall meet all other applicable requirements contained herein.
- C. Requirements. The stormwater management plan shall meet the following minimum requirements to the maximum extent practicable:

(1) Water Quality. BMPs shall be designed, installed and maintained to control pollutants carried in runoff from the post-construction site. The design shall be based on the average annual rainfall, as compared to no runoff management controls.

(a) The following is required for a post-construction site adding 4,000 square feet or more of new impervious surfaces, and/or a site with one (1) acre or more of land disturbance.

[1] Except as provided in § 463-19C(1)(a)[2], a pollutant reduction is required as follows:

<i>Watershed</i>	Total Suspended Solids (TSS) and Total Phosphorus (TP) Reduction					
	<i>New Development</i>		<i>Redevelopment</i>		<i>Routine Maintenance</i>	
	TSS	TP	TSS	TP	TSS	TP
Apple Creek	80%	41%	52%	41%	52%	41%
Bear Creek	80%	30%	40%	30%	40%	30%
Fox River	80%	41%	72%	41%	72%	41%
Mud Creek	80%	48%	43%	48%	43%	48%

[2] A pollutant reduction is not required for routine maintenance areas that are part of a post-construction site with less than five (5) acres of disturbance.

(b) Sites, including common plan of development sites, with a cumulative addition of 20,000 square feet or greater of impervious surfaces after January 1, 2005 are required to satisfy the performance standards pursuant to § 463-19C(1)(a)[1] and [2].

(c) The amount of pollutant control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

- (d) When designing BMPs, runoff draining to the BMP from off-site areas shall be taken into account in determining the treatment efficiency of the practice. Any impact on the BMP efficiency shall be compensated for by increasing the size of the BMP accordingly. The pollutant load reduction provided by the BMP for an off-site area shall not be used to satisfy the required on-site pollutant load reduction unless otherwise approved by the administering authority, in accordance with § 463-19E of this article.
 - (e) If the design cannot meet the water quality performance standards of § 463-19C(1)(a) - (d), the stormwater management plan shall include a written, site specific explanation of why the water quality performance standards cannot be met and why the pollutant load will be reduced only to the maximum extent practicable. Except as provided in § 463-19F, the administering authority may not require any person to exceed the applicable water quality performance standards to meet the requirements of maximum extent practicable.
- (2) Peak Discharge. BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site.
- (a) The following is required for a post-construction site adding 4,000 square feet or more of new impervious surfaces, and/or a site with one (1) acre or more of land disturbance:
 - [1] For a post-construction site adding less than 20,000 square feet of new impervious surface, the peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the 1-year and 2-year, 24-hour design storms. For a post-construction site adding 20,000 square feet or more of new impervious surface and/or a post-construction site with one (1) acre or more of land disturbance, the peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the 1-year, 2-year, 10-year, and 100-year, 24-hour design storms
 - [2] Peak discharge control is not required for routine maintenance areas, except when runoff from the routine maintenance area discharges into a proposed peak flow control facility.
 - [3] Peak discharge calculations shall use TR-55 methodology. Atlas 14 rainfall depths and the MSE4 rainfall distribution shall be used unless the site is to be served by a previously constructed peak discharge facility. At the permittee's discretion, the TP-40 rainfall depths and the Type II rainfall distribution can be used for sites that are to be served by a previously constructed peak discharge facility. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. Unless the site is currently woodland, peak pre-development discharge rates shall be determined using the following runoff curve numbers for a "meadow" vegetative cover:

Maximum Pre-Development Runoff Curve Numbers				
<i>Vegetative Cover</i>	<i>Hydrologic Soil Group</i>			
	A	B	C	D
Meadow	30	58	71	78
Woodland	30	55	70	77

- (b) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after January 1, 2005 are required to satisfy the performance standards pursuant to § 463-19C(2)(a)[1] - [3].
- (c) The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- (d) When designing BMPs, runoff draining to the BMP from off-site areas shall be taken into account in determining the performance of the practice. Any impact on the BMP performance shall be compensated for by increasing the size of the BMP accordingly. The peak discharge reduction provided by the BMP for an off-site area shall not be used to satisfy the required on-site peak discharge reduction unless otherwise approved by the administering authority, in accordance with § 463-19E of this article.
- (e) An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site, and shall consist of:
 - [1] Non-erosive discharge velocities and reasonable downstream conveyance.
 - [2] Discharge to the municipal separate storm sewer system, waters of the State, or an appropriate drainage easement. If a site is not able to meet this requirement, an adequate outfall may be permitted if it diffuses the discharge within the site boundary in accordance with the Town of Grand Chute Stormwater Reference Guide.
- (f) New buildings with basements shall be designed to provide a minimum one (1) foot of vertical separation between the lowest floor surface and the estimated high groundwater level. If less than one (1) foot of vertical separation is provided, groundwater flow shall be estimated for each basement during site or subdivision design. In addition, the on-site stormwater systems shall be designed to accommodate the additional water flow and volume from groundwater.
- (g) New development sites that discharge into direct conduits to groundwater shall be designed in conformance with Chapter 38 of the Outagamie County Code of Ordinances.
- (h) New development sites located near a closed depression and/or flood prone area shall be designed to provide a minimum one (1) foot of vertical separation between the lowest ground surface elevation at the building's perimeter and the overland

relief elevation for the flood prone area. Outagamie County and the Town of Grand Chute maintain a Flood Prone Area map to assist with identifying higher risk areas. If less than one (1) foot of vertical separation is provided, a detailed stormwater analysis shall be performed to identify and reasonably manage 100-year flooding risks for buildings or structures located within the flood prone area.

- (i) Agricultural production areas shall meet the intent of this article by following the BMPs listed in the Town of Grand Chute Stormwater Reference Guide.
- (j) Exemptions. The peak discharge performance standards described herein do not apply to the following:
 - [1] A transportation facility where the discharge is directly into a lake of over 5,000 acres or a stream or river segment draining more than 500 square miles.
 - [2] Except as provided in § 463-19C(2)(c) - (e), a highway reconstruction site.
 - [3] Except as provided in § 463-19C(2)(c) - (e), a transportation facility that is part of a redevelopment project.
- (3) Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff from the post-construction site, except as provided in § 463-19C(3)(h) - (l) of this article.
 - (a) The following is required for a post-construction site with one (1) acre or more of land disturbance:
 - [1] Low Imperviousness. For development with up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one (1) percent of the post-construction site is required as an effective infiltration area.
 - [2] Moderate imperviousness. For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two (2) percent of the post-construction site is required as an effective infiltration area.
 - [3] High imperviousness. For development with more than 80 percent connected imperviousness, such as commercial districts and retail centers, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration

systems to meet this requirement, no more than two (2) percent of the post-construction site is required as an effective infiltration area.

- (b) Pre-development condition shall assume “good hydrologic conditions” for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. The actual pre-development vegetative cover and the following pre-development runoff curve numbers shall be used:

Maximum Pre-Development Runoff Curve Numbers				
<i>Vegetative Cover</i>	<i>Hydrologic Soil Group</i>			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

- (c) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after January 1, 2005 are required to satisfy the performance standards pursuant to § 463-19C(3)(a) and (b) of this article.
- (d) The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- (e) Agricultural production areas shall infiltrate runoff volume using BMPs from the Town of Grand Chute Stormwater Reference Guide.
- (f) When designing BMPs, runoff draining to the BMP from off-site areas shall be taken into account in determining the performance of the practice. Any impact on the BMP performance shall be compensated for by increasing the size of the BMP accordingly. The runoff volume reduction provided by the BMP for an off-site area shall not be used to satisfy the required on-site runoff volume reduction unless otherwise approved by the administering authority, in accordance with § 463-19E of this article.
- (g) Pretreatment. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with § 463-19C(3)(n). Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- (h) Source area prohibitions. Runoff from the following areas may not be infiltrated and may not qualify as contributing toward meeting the requirements of § 463-19C(3), unless demonstrated to meet the conditions of § 463-19C(3)(n):

- [1] Areas associated with a tier 1 industrial facility, as identified in § NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, and parking. Rooftops may be infiltrated with the concurrence of the administering authority.
 - [2] Storage and loading areas of a tier 2 industrial facility, as identified in § NR 216.21(2)(b), Wis. Adm. Code.
 - [3] Fueling and vehicle maintenance areas. Rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the administering authority.
 - [4] Agricultural production areas that contain livestock, animal waste, or feed storage.
- (i) Source area exemptions. Runoff from the following areas may be credited by the administering authority toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these sources is optional:
- [1] Parking areas and access roads of less than 5,000 square feet for commercial development.
 - [2] Parking areas and access roads of less than 5,000 square feet for industrial development not subject to the prohibitions in § 463-19C(3)(h) of this article.
 - [3] Except as provided in § 463-19C(3)(d), redevelopment and routine maintenance areas.
 - [4] In-fill development areas of less than five (5) acres.
 - [5] Roads in commercial, industrial and institutional land uses, and arterial residential roads.
 - [6] Except as provided in § 463-19C(3)(d), transportation facilities, highway reconstruction and new highways.
- (j) Prohibitions. Infiltration practices may not be located in the following areas:
- [1] Areas within 1,000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.
 - [2] Areas within 400 feet of a community water system well as specified in § NR 811.16(4), Wis. Adm. Code, or within the separation distances listed in § NR 812.08, Wis. Adm. Code, for any private well or non-community well for runoff infiltrated from commercial development, including multi-family residential, industrial, and institutional land uses, or regional devices for one- and two-family residential development.

[3] Areas where contaminants of concern, as defined in § NR 720.03(2), Wis. Adm. Code, are present in the soil through which infiltration will occur.

(k) Separation distances. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with the following:

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

Notwithstanding the provisions in § 463-19C(3)(k), applicable requirements for injection wells classified under § NR 815, Wis. Adm. Code, shall be followed.

(l) Infiltration rate exemptions. Infiltration practices located in the following areas may be credited by the administering authority toward meeting the requirement under the following conditions, but the decision to infiltrate runoff under these conditions is optional:

[1] Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour, using a scientifically credible field test method.

[2] Where the least permeable soil horizon to five (5) feet below the proposed bottom of the infiltration system, using the U.S. Department of Agriculture method of soils analysis, is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

(m) Alternate uses. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, irrigation, or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required in § 463-19C(3) of this article.

(n) Groundwater standards.

- [1] Infiltration systems designed in accordance with § 463-19C(3) shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with § NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed, or shall be modified to prevent infiltration to the maximum extent practicable.
- [2] Notwithstanding the provisions in § 463-19C(3)(n)[1], the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(o) Where the requirements in § 463-19C(3)(h) - (l) limit or restrict the use of infiltration practices, the performance standards pursuant to § 463-19C(3) shall be met to the maximum extent practicable.

(4) Protective areas.

(a) Protective areas are required adjacent to the following natural features, at the widths specified herein:

- [1] For outstanding resource waters and exceptional resource waters: 75 feet.
- [2] For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current: 50 feet.
- [3] For lakes: 50 feet.
- [4] For highly susceptible wetlands: 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
- [5] For less susceptible wetlands: 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include: degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
- [6] For all other wetlands not subject to the characterization in § 463-19C(4)(a)[4] or [5]: 50 feet
- [7] For concentrated flow channels with drainage areas greater than 130 acres: 10 feet.

- [8] Notwithstanding the provisions in § 463-19C(4)(a)[1] - [7], the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.
- (b) Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with § NR 103.08(1m), Wis. Adm. Code. The wetland delineator shall be approved by the administering authority. The requirements in § 463-19C(4) do not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
- (c) Determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland, in accordance with the standards and criteria in § NR 103.03, Wis. Adm. Code.
- (d) The requirements in § 463-19C(4) apply to all post-construction sites located within a protective area, except those areas exempted pursuant to § 463-19C(4)(g) in this article.
- (e) The following protective area requirements shall be met:
- [1] Impervious surfaces shall be kept out of the protective area entirely, or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the stormwater management plan shall contain a written, site-specific explanation.
- [2] Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained in areas where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
- [3] BMPs such as filter strips, swales, or wet detention ponds, which are designed to control pollutants from non-point sources, may be located in the protective area.
- (f) A protective area established or created after January 1, 2005 shall not be eliminated or reduced, except as allowed in § 463-19C(4)(g)[2], [3], or [4] in this article.

- (g) Exemptions. The following areas are not required to meet the protective area requirements in § 463-19C(4):
- [1] Redevelopment and routine maintenance areas, provided the minimum requirements in § 463-19C(4)(f) are satisfied.
 - [2] Structures that cross or access surface waters, such as boat landings, bridges and culverts.
 - [3] Structures constructed in accordance with § 59.692(1v), Wis. Stats.
 - [4] Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the requirements of § 463-19C(1) and (2), except to the extent that vegetative ground cover is necessary to maintain bank stability.
 - [5] Notwithstanding the provisions in § 535-53 of the Town of Grand Chute Municipal Code and Chapter 40 of the Outagamie County Code of Ordinances, the construction of a fence on a property zoned or used for single-family residential or two-family residential purposes is not required to meet the protective area requirements in § 463-19C(4)(a)[4] - [6]; however, any such fence shall be constructed and placed a minimum distance of one (1) foot from any wetland boundary delineation.
- (5) Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall have BMPs designed, installed and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.
- (6) Swale treatment for transportation facilities. Except for transportation facilities that are part of a larger common plan of development or sale, the following requirements shall be met:
- (a) Requirement. Except as provided in § 463-19C(6)(b), transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of § 463-19C(1) - (3), if the swales are designed to do all of the following, or to the maximum extent practicable:
 - [1] Swales shall be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 - [2] Swales shall comply with the Wisconsin Department of Natural Resources Technical Standard 1005, "Vegetated Infiltration Swale", except as otherwise authorized in writing by the Wisconsin Department of Natural Resources.
 - (b) Other Requirements. Notwithstanding the requirements in § 463-19C(6)(a), the administering authority may, consistent with water quality standards, determine that

other requirements, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2,500 and where the initial surface water of the State at which the runoff directly enters is any of the following:

- [1] An outstanding resource water.
- [2] An exceptional resource water.
- [3] Waters listed in section 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.
- [4] Waters where targeted performance standards are developed pursuant to § NR 151.004, Wis. Adm. Code.

(7) Exemptions. The following areas are not required to meet the performance standards in § 463-19C:

(a) Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

(b) The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.

[1] A transportation facility post-construction site with less than 10 percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one (1) acre. Notwithstanding this exemption, the protective area requirements in § 463-19C(4) still apply.

[2] Reconditioning or resurfacing of a highway.

[3] Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements in § 463-19C(4) still apply.

[4] Routine maintenance for transportation facilities that have less than five (5) acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

[5] Routine maintenance, if performed for stormwater conveyance system cleaning.

D. General considerations. The following considerations for on-site and off-site stormwater management measures shall be observed in managing runoff:

(1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

- (2) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

E. BMP location and credit.

- (1) General. To comply with the performance standards in § 463-19C, the BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system.

- (2) Off-site or regional BMP.

- (a) The amount of credit that the administering authority may give an off-site or regional BMP for purposes of determining compliance with the performance standards in § 463-19C is limited to the treatment capability or performance of the BMP.

- (b) The administering authority may authorize credit for an off-site or regional BMP, provided all of the following conditions are satisfied:

- [1] The BMP received all applicable permits.

- [2] The BMP shall be installed and operational before the construction site has undergone final stabilization.

- [3] The BMP shall be designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site BMPs meeting the performance standards in § 463-19C of this article.

- [4] The owner of the BMP has entered into a maintenance agreement with the administering authority, as provided in § 463-22, such that the BMP has a legally obligated entity responsible for its long-term operation and maintenance. Legal authority exists if a municipality owns, operates and maintains the BMP.

- [5] The owner of the BMP has provided written authorization that indicates the permittee may use the BMP in compliance with the performance standards in § 463-19C of this article.

- [6] Where an off-site or regional BMP option exists such that the administering authority exempts the owner from meeting all or part of the minimum on-site stormwater management requirements, the owner shall be required to pay a fee in an amount determined in negotiation with the administering authority. In determining the fee for post-construction runoff, the administering authority shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the off-site or regional BMP.

- (3) BMP in non-navigable waters. For purposes of determining compliance with the performance standards in § 463-19C, the administering authority may give credit for BMPs that function to provide treatment for runoff from existing development and post-construction

runoff from new development, redevelopment, and routine maintenance areas and that are located within non-navigable waters.

(4) BMP in navigable waters.

(a) New development runoff. Except as provided in § 463-19E(4)(b), BMPs designed to treat post-construction runoff from new development areas may not be located in navigable waters, and for purposes of determining compliance with the performance standards in § 463-19C, the administering authority may not give credit for such BMPs.

(b) New development runoff exemption. BMPs designed to treat post-construction runoff from new development areas may be located within navigable waters and may be creditable by the administering authority under the provisions in § 463-19C, if both of the following conditions are met:

[1] The BMP was constructed prior to October 1, 2002 and received all applicable permits.

[2] The BMP functions or will function to provide runoff treatment for the new development area.

(c) Existing development & post-construction runoff from redevelopment, routine maintenance, & in-fill development areas. Except as provided in § 463-19E(4)(d), BMPs designed to treat post-construction runoff for existing development and post-construction runoff from redevelopment, routine maintenance and in-fill development areas may not be located in navigable waters, and for purposes of determining compliance with the performance standards in § 463-19C, the administering authority may not give credit for such BMPs.

(d) Existing development & post-construction runoff from redevelopment, routine maintenance, & in-fill development areas exemption. BMPs that function to provide treatment of runoff from existing development and post-construction runoff from redevelopment, routine maintenance and in-fill development areas may be located within navigable waters, and for purposes of determining compliance with the performance standards in § 463-19C, the administering authority may give credit for such BMPs, if either of the following are met:

[1] The BMP was constructed, contracts were signed or bids were advertised and all applicable permits were received prior to January 1, 2011.

[2] The BMP is on an intermittent waterway and all applicable permits are received.

(5) Water quality trading. To comply with the performance standards in § 463-19C(1), the administering authority may authorize credit for water quality trading, provided all of the following conditions are satisfied:

(a) The treatment practices associated with a water quality trade shall be in place,

effective and operational before credit can be authorized.

- (b) The water quality trade shall comply with applicable trading ratios established by the Wisconsin Department of Natural Resources or the Town of Grand Chute.
 - (c) The water quality trade shall comply with applicable regulations, standards, and guidance developed by the Wisconsin Department of Natural Resources or the Town of Grand Chute.
 - (d) The responsible party shall furnish a copy of executed water quality trading agreements or other related information deemed necessary by the administering authority in order to authorize credit.
- F. Targeted performance standards. The administering authority may establish numeric water quality requirements that are more stringent than those set forth in § 463-19C in order to meet targeted performance standards, total maximum daily loads, and/or water quality standards for a specific water body or area. The numeric water quality requirements may be applicable to any permitted site, regardless of the size of land disturbing construction activity.
- G. Alternate requirements. The administering authority may establish stormwater management requirements more stringent than those set forth in this article, if the administering authority determines that an added level of protection is needed to protect sensitive resources. Also, the administering authority may establish stormwater management requirements less stringent than those set forth in this article, if the administering authority determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by Wisconsin Department of Natural Resources § NR 151 Wis. Adm. Code. The established additional requirements shall be provided to the applicant in writing.

§ 463-20. Permitting requirements, procedures and fees.

- A. Permit required. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the administering authority prior to commencing the proposed activity.
- B. Permit application and fees. Unless specifically excluded by this article, any responsible party desiring a permit shall submit to the administering authority a permit application made on a form provided by the administering authority for that purpose.
 - (1) Unless otherwise excepted by this article, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a non-refundable permit administration fee.
 - (2) The stormwater management plan shall be prepared to meet the requirements in § 463-19 and § 463-21; the maintenance agreement shall be prepared to meet the requirements in § 463-22; the financial guarantee shall meet the requirements in § 463-23; and, fees shall be those established by the Town of Grand Chute Board as set forth in § 463-24 of this article.

- C. Review and approval of permit application. The administering authority shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
- (1) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made pursuant to § 463-19E, the administering authority shall issue the permit.
 - (2) If the stormwater permit application, plan or maintenance agreement is disapproved, the administering authority shall detail in writing the reasons for disapproval.
 - (3) The administering authority may request additional information from the applicant. If additional information is submitted, the administering authority shall inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- D. Permit requirements. All permits issued under this article shall be subject to the following conditions, and holders of permits issued under this article shall be deemed to have accepted these conditions. The administering authority may suspend or revoke a permit for violation of a permit condition, following written notification to the responsible party. An action by the administering authority to suspend or revoke this permit may be appealed in accordance with the provisions in § 463-26 of this article.
- (1) Compliance with this permit does not relieve the responsible party of the obligation to comply with all other applicable federal, state, and local laws and regulations.
 - (2) The responsible party shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.
 - (3) The responsible party shall notify the administering authority at least 10 business days before commencing any work in conjunction with the stormwater management plan, and within 10 business days upon completion of the stormwater management practices. If required as a special condition pursuant to § 463-20E, the responsible party shall make additional notification according to a schedule set forth by the administering authority so that practice installations can be inspected during construction.
 - (4) Practice installations required as part of this article shall be certified "as-built" by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the administering authority or its designee to determine if they are in accordance with the approved stormwater management plan and this article. The administering authority or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
 - (5) The responsible party shall notify the administering authority of any significant modifications it intends to make to an approved stormwater management plan. The administering authority may require that the proposed modifications be submitted to it

for approval prior to incorporation into the stormwater management plan and execution by the responsible party.

- (6) The responsible party shall inspect BMPs annually and after runoff events in accordance with the stormwater management plan and maintenance agreement. The responsible party shall have a licensed professional engineer submit a stamped written inspection report to the administering authority for review and approval every five years. All written inspection reports prepared by the responsible party shall accompany the stamped report prepared by the licensed professional engineer.
 - (7) The responsible party shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the Town of Grand Chute, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
 - (8) The responsible party authorizes the administering authority to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under the provisions in § 463-23 of this article.
 - (9) If so directed by the administering authority, the responsible party shall repair at the responsible party's own expense, all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
 - (10) The responsible party shall permit property access to the administering authority or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
 - (11) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the administering authority may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
 - (12) The responsible party is subject to the enforcement actions and penalties provided in § 463-25, if the responsible party fails to comply with the terms of this permit.
 - (13) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- E. Permit conditions. Permits issued under this subsection may include conditions established by the administering authority, in addition to the performance standards in § 463-19, or the financial guarantee requirements pursuant to § 463-23.
- F. Permit duration. Permits issued under this subsection shall be valid from the date of issuance through the date the administering authority notifies the responsible party that all stormwater management practices have passed the final inspection required under the provisions in § 463-20D(4) of this article.

- G. Alternate requirements. The administering authority may prescribe alternative requirements for applicants seeking an exemption from the on-site stormwater management performance standards in § 463-19E, or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

§ 463-21. Stormwater management plan.

- A. Plan requirements. The stormwater management plan required under the provisions in § 463-19B and § 463-20B shall comply with the Town of Grand Chute Stormwater Reference Guide, and contain at a minimum the following information:

- (1) Name, address, and telephone number of the landowner and responsible parties.
- (2) A legal description of the property proposed to be developed.
- (3) Pre-development site map with property lines, disturbed limits, and drainage patterns.
- (4) Post-development site map with property lines, disturbed limits, and drainage patterns.
 - (a) Total area of disturbed impervious surfaces within the site.
 - (b) Total area of new impervious surfaces within the site.
 - (c) Performance standards applicable to site.
 - (d) Proposed best management practices.
 - (e) Groundwater, bedrock, and soil limitations.
 - (f) Separation distances. Stormwater management practices shall be adequately separated from wells to prevent contamination of drinking water.
- (5) Inspection and maintenance schedules for stormwater BMPs.

- B. Alternate requirements. The administering authority may prescribe alternative submittal requirements for applicants seeking an exemption from the on-site stormwater management performance standards in § 463-19E, or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

§ 463-22. Maintenance agreement.

- A. Maintenance agreement required. The maintenance agreement required under the provisions in § 463-20B for stormwater management practices shall be an agreement between the Town of Grand Chute and the responsible party, to provide for maintenance of stormwater practices beyond the duration period of a post-construction runoff permit. The maintenance agreement shall be filed with the Outagamie County Register of Deeds as a property deed restriction, so that it is binding upon all subsequent owners of the land served by the stormwater management practices.

- B. Agreement provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the plan required under the provisions in § 463-20B:
- (1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
 - (2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under the provisions in § 463-20B.
 - (3) Identification of the responsible party(s), organization or city, county, town or village responsible for long-term maintenance of the stormwater management practices identified in the stormwater management plan required under the provisions in § 463-20B.
 - (4) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule required under the provisions in § 463-22B(2).
 - (5) Authorization for the administering authority to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (6) A requirement on the administering authority to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
 - (7) Agreement that the party designated as responsible for long-term maintenance of the stormwater management practices, shall be notified by the administering authority of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the administering authority.
 - (8) Authorization of the administering authority to perform the corrected actions identified in the inspection report, if the party designated as responsible for long-term maintenance of the stormwater management practices does not make the required corrections in the specified time period. The administering authority shall enter the amount due on the tax rolls and collect the money as a special charge against the property, pursuant to Subch. VII of § 66, Wis. Stats.
- C. Alternate requirements. The administering authority may prescribe alternative requirements for applicants seeking an exemption from the on-site stormwater management performance standards in § 463-19E, or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

§ 463-23. Financial guarantee.

- A. Establishment of the guarantee. The administering authority may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the administering authority. The financial guarantee shall be in an amount determined by the administering authority to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall grant the administering authority the authorization to use the funds to complete the stormwater management practices, if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the administering authority that the requirements of this article have not been met.

- B. Conditions for release. Conditions for the release of the financial guarantee are as follows:
 - (1) The administering authority shall release the portion of the financial guarantee established under this section, less any costs incurred by the administering authority to complete installation of practices, upon submission of "as-built plans" by a licensed professional engineer. The administering authority may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

 - (2) The administering authority shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the administering authority, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

- C. Alternate requirements. The administering authority may prescribe alternative requirements for applicants seeking an exemption from the on-site stormwater management performance standards in § 463-19E, or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

§ 463-24. Fee schedule.

Fees referred to in this article shall be established by the Town of Grand Chute Board and may be modified from time-to-time. A schedule of the fees established by the Town Board shall be available for review upon request.

§ 463-25. Enforcement.

- A. Any land disturbing construction activity or post-construction runoff initiated after the effective date of this article by any person, firm, association, or corporation subject to the article provisions shall be deemed a violation, unless conducted in accordance with the requirements of this article.

- B. The administering authority shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall

describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.

- C. Upon receipt of written notification from the administering authority pursuant to § 463-25B, the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of a post-construction runoff permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth in the notice.
- D. If the violations to a permit issued pursuant to this article are likely to result in damage to properties, public facilities, or waters of the State, the administering authority may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the administering authority, plus interest and legal costs, shall be billed to the responsible party.
- E. The administering authority is authorized to post a stop-work order on all land disturbing construction activity that is in violation of this article, or to request that the Town Attorney obtain a cease and desist order in any court with jurisdiction.
- F. The administering authority may revoke a permit issued under this article for non-compliance with article provisions.
- G. Any permit revocation, stop-work order, or cease and desist order shall remain in effect unless retracted by the administering authority, or by a court with jurisdiction.
- H. The administering authority is authorized to refer any violation of this article, or any stop-work order or cease and desist order issued pursuant to this article, to the Town Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- I. Any person, firm, association, or corporation who does not comply with the provisions of this article shall be subject to a forfeiture as provided in the Uniform Forfeiture and Bond Schedules per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- J. Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- K. When the administering authority determines that the holder of a permit issued pursuant to this article has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the administering authority or a party designated by the administering authority may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The administering authority shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to § 463-23 of this article. Where such a security has not been established, or where such a security

is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

§ 463-26. Appeals.

- A. Appeals. The Town of Grand Chute Plan Commission, created pursuant to § 16-2 of The Town of Grand Chute Municipal Code, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the administering authority in administering this article. The Plan Commission shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Plan Commission may authorize variances from the provisions of this article that are not contrary to the public interest, and where owing to special conditions, a literal enforcement of the article will result in unnecessary hardship.
- B. Who may appeal. Appeals to the Plan Commission may be taken by any aggrieved person or by an officer, department, board, or bureau of the Town of Grand Chute affected by any decision of the administering authority.

§ 463-27. Variances.

In any particular case where a landowner can show that, by reason of exceptional topography or other physical condition, strict compliance with any requirement of this article would cause unnecessary hardship, the Plan Commission may grant a variance from the provisions of this article, provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of this article or the desirable general development of the Town of Grand Chute. No variance shall be granted by the Plan Commission that is contrary to provisions of the Wisconsin Administrative Code or the Wisconsin Statutes.

§ 463-28. Limitations on municipal responsibility.

Nothing in this article creates or imposes, nor shall be construed to create or impose, any greater obligation or responsibility on the Town of Grand Chute than those minimum requirements specifically required by State of Wisconsin Statutes and Department of Natural Resources regulations.