

Final Report

Urban Nonpoint Source & Storm Water Management Planning Grant

Form 3400-189P (R 7/16)

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NOTICE: This document is required under s. 281.66, Wis. Stats., and chs. NR 154 and 155, Wis. Adm. Code. A final project report must be submitted as part of the final reimbursement request. Personally identifiable information contained in this form will be used for determining reimbursement eligibility in the Urban Nonpoint Source & Storm Water Management Grant Program and will not be used for any other purpose.

Planning Grant – Urban Nonpoint Source & Storm Water Management Program

INSTRUCTIONS: Send the completed, electronic copy of this form and all attachments to the Department of Natural Resources (DNR) Regional Nonpoint Source Coordinator. Please read all instructions prior to completing the form.

Project Information

Governmental Unit Name		Grant Number	
Town of Clayton, County of Winnebago		USP71006Y16	
Project Name			
Clayton CY2015/16 MS4 Planning Grant			
Project Contact Name	Phone Number	E-mail Address	
Richard Johnston	(920) 836-2007	tocadmin@new.rr.com	

Project Location Information

Additional locations may be added to the project at [+].

County	Watershed Name	12-Digit HUC	Nearest Receiving Waterbody			
Winnebago	Lower Fox	040302040202	Mud Creek			
Site Name	Quarter/Quarter	Quarter	Section	Township	Range	E or W
Section 12 Area	SE	SE	12	20	16	E
County	Watershed Name	12-Digit HUC	Nearest Receiving Waterbody			
Winnebago	Lower Fox	040302040201	Little Lake Butte Des Morts			
Site Name	Quarter/Quarter	Quarter	Section	Township	Range	E or W
Section 13 Area	NE	SE	13	20	16	E
County	Watershed Name	12-Digit HUC	Nearest Receiving Waterbody			
Winnebago	Wolf River	040302011202	Daggets Creek			
Site Name	Quarter/Quarter	Quarter	Section	Township	Range	E or W
Section 35 Area	NW	SE	35	20	16	E
County	Watershed Name	12-Digit HUC	Nearest Receiving Waterbody			
Winnebago	Lower Fox	040302040201	Little Lake Butte Des Morts			
Site Name	Quarter/Quarter	Quarter	Section	Township	Range	E or W
Section 36 Area	SE	SE	36	20	16	E

Project Area(s)

Additional rows may be added at [+].

Describe the project area(s) covered by the Planning Grant Product(s)
Stormwater Management Planning Areas in Section 12, 13, 35 and 36. Areas were evaluated and modeled to determine Total Suspended Solids, Phosphorus and Peak Flow reductions.

Planning Grant Product(s) Produced	Acres Covered by the Planning Product(s)			Approximate Center Point of Area Covered	
	Existing Developed Urban Acres	New Development Urban Acres	Total Acres	Latitude	Longitude
Stormwater Management Plan - Section 12	40		40	44.2144	-88.5303
Stormwater Management Plan - Section 13	40		40	44.2067	-88.5241
Stormwater Management Plan - Section 35	40		40	44.1626	-88.5608
Stormwater Management Plan - Section 36	40		40	44.1573	-88.524

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Summary of Results		
Products Developed electronic submittal with Final Report	Comments: 1. Identify Documents/Products by Name. 2. Provide summary information. (Narrative space expands.)	Review copy was submitted 60-days in advance
<input checked="" type="checkbox"/> Construction Erosion Control Ordinance	Construction Erosion Control Ordinance	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Post-construction Storm Water Ordinance - new and re-development	Post-construction Storm Water Ordinance	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Low impact development/conservation subdivision ordinance	Subdivision Ordinance	<input checked="" type="checkbox"/>
<input type="checkbox"/> Other Ordinance		<input type="checkbox"/>
<input checked="" type="checkbox"/> Financing Mechanism Developed &/or Implemented	Storm Water Utility	<input checked="" type="checkbox"/>
<input type="checkbox"/> Financing Mechanisms Feasibility Analysis		<input type="checkbox"/>
<input checked="" type="checkbox"/> Storm Water Management Plan for Developed Urban Areas	Town of Clayton Stormwater Management Plan, dated May 2018.	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Storm Water Management Plan for New Development	Town of Clayton Stormwater Management Plan, dated May 2018.	<input checked="" type="checkbox"/>
<input type="checkbox"/> Storm Sewer System Map		<input type="checkbox"/>
<input type="checkbox"/> Public Education & Outreach and/or Public Involvement & Participation Activities Associated with Project Elements Above		<input type="checkbox"/>
<input type="checkbox"/> Comprehensive Storm Water Information & Education Program Developed/Implemented		<input type="checkbox"/>
<input type="checkbox"/> Other Urban Planning Activities		<input type="checkbox"/>
<input type="checkbox"/> Inter-governmental Storm Water Management Project Developed/Implemented		<input type="checkbox"/>
List Governmental Unit(s) Involved		

Storm Water Goals Addressed	Comments	Additional goals may be added at [+]
Reduce TSS	Town of Clayton Stormwater Management Plan, dated May 2018, addresses TSS reduction by providing proposed stormwater management facilities in key locations and future development areas.	
Control Peak Flow	Town of Clayton Stormwater Management Plan, dated May 2018, addresses Peak Flow Control by providing proposed stormwater management facilities in key locations and future development areas.	

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Planning Grant

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Storm Water Goals Addressed	Comments	Additional goals may be added at [+]
Reduce P Loading to address TMDL goal	Town of Clayton Stormwater Management Plan, dated May 2018, addresses phosphorus loading to address TMDL goals by providing proposed stormwater management facilities in key locations and future development areas.	

Project Comments

The governmental unit has approved or adopted the product(s) developed. ☒ Yes ☐ No Explain status below.

Provide a summary of project challenges and accomplishments. Also report the status of the local municipality's acceptance, approval, adoption, or implementation of the products, including ordinances, developed under the grant. (Narrative space expands.)

The draft ordinances are in the process of being approved and adopted. Implementation will occur soon thereafter as possible.

Final Report Attachments (electronic submittal)

Check the box if the information for the project is attached. If the information was produced under the grant, it is required to be submitted as part of the Final Report.

☒ Planning, ordinance, financing, I&E product(s) developed

☒ Load reduction modeling document(s)

☒ Aerial photo map of project area

☒ GIS mapping information

☒ Water quality monitoring results/summary

Grantee Certification

A responsible government official (authorized signatory) must authorize and date the final report form prior to electronic submittal to the DNR Regional Nonpoint Source Coordinator.

I certify that, to the best of my knowledge, the project is complete and the information contained in this final report and attachments is correct and true.

Name of Authorized Government Official

Richard Johnston

Title of Authorized Government Official

Town Administrator/Clerk

Date

05/29/2018

For DNR Nonpoint Source Coordinator Use Only

☒ Received complete reports with all attachments.

☐ DNR accepts and approves the activities/products as consistent with the grant agreement and 281.66, Wis. Stat.

Comments about this project: (Narrative space expands.)

One ordinance was not approved by DNR. Even with that ordinance removed from the original application the grant would have been above the funding line. I believe \$1,870 should be removed from the reimbursement request because one of the four ordinances was not approved.

Name of Nonpoint Source Coordinator

Eric Evensen

Date

6/29/18

Send the Final Report and attachments to the Community Financial Assistance Grant Manager and to the Runoff Management Grant Coordinator. Keep a printed copy for the Region file.

- (c) Membership in the Association shall be mandatory for all lot owners and their successors and assigns.
- (d) The Association shall be authorized to levy fees and assessments against all lots in an amount sufficient for the payment of real estate taxes and to discharge its duties and responsibilities.
- (e) Unpaid fees and assessments by any lot owner shall become and remain a lien on the lot until paid; with the Association authorized to bring any action necessary against a lot owner for the collection of fees and assessments.
- (f) Modification of any by-laws including the duties and responsibilities of the Association and the levying of fees and assessments shall require approval of the Town.

7.10.10 CONSERVATION SUBDIVISIONS

(1) CONSERVATION BY DESIGN SUBDIVISIONS WILL BE OPTIONAL.

(2) PURPOSE

To conserve open space by grouping lots with reduced individual lot sizes, provided that overall density within the subdivision is maintained. The remaining undeveloped area within the subdivision provides open space and helps to preserve the scenic and natural qualities of the land being divided, especially any applicable environmentally sensitive areas of the Town of Clayton. The grouping of residences will facilitate common water and sewage disposal systems and encourage the improved use of land while respecting the preservation of natural resources.

(3) APPLICABILITY

Any subdivision or CSM where the total area of land to be developed is at least five (5) acres may follow the Conservation Subdivision Ordinance. Other land divisions with less than five (5) acres may use the Conservation Subdivision Ordinance with special approval from the Town Board.

(4) SITE ANALYSIS PLAN

As a part of the concept plan phase a study of existing site features shall be prepared and provided to the Town prior to the on-site inspection. This site analysis must include the following:

- (a) A topographic map, based on a U.S.G.S. Quadrangle map or aerial topography at not less than two (2) foot contours;
- (b) Soil boundaries as shown on the Winnebago County Soil Survey maps published by the Soil Conservation Service;
- (c) The location of significant features such as woodlands, tree-lines, open fields or meadows, scenic views into or out from the property, watershed divides and

- drainage ways, fences or stone walls, rock outcrops, existing structures, easements, roads, tracks and trails; and
- (d) The identity of both Primary Conservation Arcas (floodways, wetlands, and steep slopes, as defined in the process for computing "Adjusted Tract Acreage") and potential Secondary Conservation Areas.

The Site Analysis Plan shall form the basis for the conceptual Preliminary Plan, which shall show the tentative location of houses, streets, lot lines, and greenway lands.

(5) GENERAL REQUIREMENTS

Proposed Conservation Subdivisions shall be platted in accordance with the following requirements and procedures of this chapter:

- (a) **Density.** The maximum permitted number of lots in such developments shall be determined by dividing the total adjusted tract acreage by the minimum lot size(s) required in the Town Zoning Ordinance. As an alternate method, the total number of lots within a Conservation Subdivision may be based upon a yield plan showing the number of lots that could be attained if the land were platted using the standard lot size and lot width. Such a yield plan shall be subject to Town approval and every lot shall be viable for development in order to be counted. Greater density may be permitted based upon Section 7.10.10 (6) (b) described below.
- (b) **Water and Sewer.** Water supply and sewage disposal shall meet the minimum standards of all State, County, or Town regulations.
- (c) **Design.** The Design Standards, as contained within this chapter, may, at the discretion of the Board, be relaxed as an incentive in developing Conservation Subdivisions. Standards that can be relaxed in order to permit more creative land division design include, but are not limited to, lot shape and depth, length of cul-de-sac roads, and road right-of-way width. However, the lots shall be of sufficient size to provide buildable room for reasonable development based on the intended use.
- (d) **Trail Connections.** If pedestrian trails are included within any Conservation Subdivision, such trails may, at the developers' discretion, be connected to any regional pedestrian trails established by the Town, Winnebago County, any adjacent community, or the State of Wisconsin, subject to approval by the owner of the trail.

(6) OPEN SPACE REQUIREMENTS

- (a) Open space required for Conservation Subdivisions shall be based upon the Town's Comprehensive Plan, the contour, character, and aesthetics of the land being developed, and may include arcas identified by the Town of Clayton as both Primary and Secondary Conservation Areas.
- (b) Minimum Open Space. In order to receive relaxation of the design standards, as described in subsection 7.10.10 (5) (a) above, permanent open space shall be designated on the plat and shall be at least thirty (30%) of the gross site area of the tract being divided. In addition, as an incentive for establishing greater open

space, the number of lots within the subdivision may be increased above the number prescribed in subsection 7.10.10 (5) (a), as follows:

1. The total amount of open space shall be at least thirty five percent (35%) of the gross site area.
 2. All of the areas identified in the Town's Comprehensive Plan as primary conservation areas shall be included within the permanent open space to the extent practical.
 3. Of the area gained as a result of reduced right-of-way widths or lots less than the normal minimum area, at least two thirds (2/3) shall be included as additional open space. The remaining one-third (1/3) may be used for additional platted lots above the density prescribed in subsection 7.10.10 (5) (a) above.
- (c) The minimum required open space may include storm water management facilities, active recreation facilities, and man-made ponds. However, not more than fifty percent (50%) of the required open space shall consist of active recreation facilities and permanent ponds.
- (d) The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems, subject to the requirements of the Winnebago County Private Sewage System Ordinance.
- (e) The required open space shall be designated as undivided open space and shall be protected by a permanent conservation easement prohibiting further development and setting other standards safeguarding the site's special resources. Such conservation easements shall be in a form acceptable to the Town and duly recorded with the Winnebago County Register of Deeds. A narrative describing the ownership, use, and maintenance responsibilities of the open space may be required by the Town.
- (f) Open space shall abut the largest practical number of lots within the Conservation Subdivision. The Town may require safe and convenient pedestrian access to the open space from all lots not adjoining the open space.
- (g) The design of open space should be sufficient to allow for the intended use, such as agriculture, natural resource protection, recreation, storm water management, etc.

(7) EVALUATION CRITERIA

The Town Plan Commission shall recommend and the Town Board shall evaluate proposed Conservation Subdivisions to determine whether the proposed conceptual preliminary plan effectively meets the following criteria:

- (a) The Conservation Subdivision design should identify and, to the extent possible, preserve all environmentally sensitive areas.
- (b) The design should create sufficient buffer areas to minimize conflicts between residential and other uses.
- (c) The development should be visually buffered from existing public roads, such as by placing lots at the far edges of fields or by a planting screen consisting of a variety of trees, shrubs, and wildflowers.

- (d) The Conservation Subdivision design should recognize and preserve, where possible, existing hedgerows and tree lines between fields or meadows, and should minimize impacts on large woodlands (greater than five (5) acres), especially those containing many mature trees or a significant wildlife habitat. When any woodland is developed, great care shall be taken to situate all disturbed areas (buildings, roads, yards, septic disposal fields, etc.) in locations where there are no large trees or obvious wildlife areas, to the fullest extent practicable.
- (e) The Conservation Subdivision design should leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep "no-build, no-cut" buffer should be provided, to preserve existing vegetation.
- (f) The Conservation Subdivision design should respect and preserve sites of historic, archaeological, or cultural significance, and their environs, insofar as needed to safeguard the character of the feature, including stone walls, barn foundations, cellar holes, earthworks, and burial grounds.
- (g) The Conservation Subdivision should protect rural roadside character and promote public safety and roadway carrying capacity by avoiding development fronting directly on or taking access onto collector or arterial roads.
- (h) If the Conservation Subdivision design includes a pedestrian circulation system, it should be designed to assure pedestrian safety, and consideration should be given to providing a connection to adjoining properties or pedestrian trail systems.
- (i) The Conservation Subdivision design should provide open space that is in a reasonably contiguous configuration. Fragmentation of open space should be minimized and not divided into numerous small parcels located in various parts of the development. To the greatest extent practical, open space should be designed as a single block with logical, smooth-flowing boundaries. Long thin strips of conservation land shall be avoided, unless the area needing conservation is linear or unless such configuration is necessary as a trail connection or similar corridor.
- (j) Wherever possible, the open space should generally abut or connect with existing or potential open space land on adjacent parcels (such as in other subdivisions, public parks, or properties owned by or leased to private land organizations). Such open space may be designed as part of a larger contiguous and integrated parkway or system of trails.

(8) OWNERSHIP OF OPEN SPACE

(a) Ownership Options:

Different ownership and management options may apply to the permanently protected open space created by the development. The open space shall remain titled as undivided interest in ownership and may be owned and managed by any of the following options:

1. A private individual or entity such as the original landowner.
2. A duly established homeowners' association or condominium association for the development, as approved by the Town.

TOWN OF CLAYTON
CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL
ORDINANCE
CHAPTER 7.10

DRAFT

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**CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL
ORDINANCE AN ORDINANCE TO CREATE CHAPTER 7.10 OF THE CODE
OF ORDINANCES OF THE TOWN OF CLAYTON RELATING TO THE
CONTROL OF CONSTRUCTION SITE EROSION AND SEDIMENTATION
RESULTING FROM LAND DISTURBING CONSTRUCTION ACTIVITIES**

FOREWORD.

Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of Ch. NR 151, Wis. Adm. Code.

The Town Board of the Town of Clayton does hereby ordain that Chapter 7.10 of the Code or Ordinances of the Town of Clayton is created to read as follows:

CHAPTER 7.10

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

S. 01 AUTHORITY.

- (1) This ordinance is adopted under the authority granted by s. 60.627, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 60.62, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 60.627, Wis. Stats., s. 60.62, or 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body
- (3) The Town Board hereby designates the Town Administrator to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

S. 02 FINDINGS OF FACT.

The Town Board acknowledges that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the State in the Town of Clayton.

S. 03 PURPOSE.

It is the purpose of this Ordinance to maintain safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; 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 by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the State in the Town of Clayton.

S. 04 APPLICABILITY AND JURISDICTION.

(1) APPLICABILITY.

- (a) Except as provided under par. (b), this ordinance applies to any construction site as defined under S. 05 (6).
- (b) This ordinance does not apply to the following:
 - 1. Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.
 - 2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
 - 3. Nonpoint discharges from agricultural facilities and practices.
 - 4. Nonpoint discharges from silviculture activities.
 - 5. Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (c) Notwithstanding the applicability requirements in par. (a), this Ordinance applies to construction sites of any size that, as determined by the Town Board of the Town of Clayton, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of

water, that causes undue channel erosion, or that increases water pollution by scouring or transporting of particulate.

(2) **JURISDICTION.**

This ordinance applies to land disturbing construction activity on lands within the boundaries and jurisdiction of the Town of Clayton;

(3) **EXCLUSIONS.**

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats.

S. 05 DEFINITIONS.

- (1) "Administering authority" means a governmental employee, or a regional planning commission empowered under s. 60.627, Wis. Stats., that is designated by the Town Board of the Town of Clayton to administer this ordinance.
- (2) "Agricultural facilities and practices" has the meaning in s. 281.16 (1), Wis. Stats.
- (3) "Best management practice" or "BMP" means 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.
- (4) "Business day" means a day the office of the Town of Clayton is routinely and customarily open for business.
- (5) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the Town of Clayton.
- (6) "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.
- (7) "Design Storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (8) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

- (9) "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (10) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (11) "Governing body" means Town Board of Supervisors,
- (12) "Land disturbing construction activity" means 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 sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (13) "Landowner" means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.
- (14) "Maximum extent practicable" means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with S. 055 of this ordinance.
- (15) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (16) "Permit" means a written authorization made by the Town of Clayton to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the State.
- (17) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- (18) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.
- (19) "Responsible party" means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (20) "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

- (21) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (22) "Silviculture activity" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (23) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (24) "Stop work order" means an order issued by the Town of Clayton which requires that all construction activity on the site be stopped.
- (25) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (26) "Transportation facility" means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 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 Department pursuant to s. 281.33, Wis. Stats.
- (27) "Waters of the State" includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

S. 055 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.

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

S. 06 TECHNICAL STANDARDS.

All BMPs required for compliance with this ordinance shall meet design criteria, standards and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.
- (3) Technical standards and methods approved by the Town of Clayton.

S. 07 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES UNDER ONE ACRE.

- (1) RESPONSIBLE PARTY. The responsible party shall comply with this section.
- (2) EROSION AND SEDIMENT CONTROL PRACTICES. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - (a) The deposition of soil from being tracked onto streets by vehicles.
 - (b) The discharge of sediment from disturbed areas into on-site storm water inlets.
 - (c) The discharge of sediment from disturbed areas into adjacent waters of the State.
 - (d) The discharge of sediment from drainage ways that flow off the site.
 - (e) The discharge of sediment by dewatering activities.
 - (f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 - (g) The transport by runoff into waters of the State of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

- (3) **LOCATION.** The BMPs shall be located so that treatment occurs before runoff enters waters of the State.
- (4) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:
 - (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
 - (b) Erosion and sediment control practices shall be maintained until final stabilization.
 - (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
 - (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

S. 08 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES OF ONE ACRE OR MORE.

- (1) **RESPONSIBLE PARTY.** The responsible party shall comply with this section and implement the erosion and sediment control plan developed in accordance with S. 10.
- (2) **EROSION AND SEDIMENT CONTROL PLAN.** A written site-specific erosion and sediment control plan shall be developed in accordance with S. 10 of this Ordinance and implemented for each construction site.
- (3) **EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS.** The erosion and sediment control plan required under sub. (2) shall include the following:
 - (a) **EROSION AND SEDIMENT CONTROL PRACTICES.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - 1. The deposition of soil from being tracked onto streets by vehicles.

2. The discharge of sediment from disturbed areas into on-site storm water inlets.
3. The discharge of sediment from disturbed areas into adjacent waters of the state.
4. The discharge of sediment from drainage ways that flow off the site.
5. The discharge of sediment by dewatering activities.
6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
7. The discharge of sediment from erosive flows at outlets and in downstream channels.
8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

(b) **SEDIMENT PERFORMANCE STANDARDS.** In addition to the erosion and sediment control practices under par. (a), the following erosion and sediment control practices shall be employed:

1. BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
2. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.

3. Notwithstanding sub d. 1., if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

(c) **PREVENTIVE MEASURES.** The erosion and sediment control plan shall incorporate all of the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
4. Development of spill prevention and response procedures.

(d) **LOCATION.** The BMPs used to comply with this section shall be located so that treatment occurs before runoff enters waters of the State.

(4) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

- (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in S. 08 (2).
- (b) Erosion and sediment control practices shall be maintained until final stabilization.
- (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

S. 09 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

- (1) **PERMIT REQUIRED.** No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Town of Clayton.
- (2) **PERMIT APPLICATION AND FEES.** The responsible party that will undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of S. 10 and shall pay an application fee to the Town of Clayton in the amount specified in S. 11. By submitting an application, the applicant is authorizing the Town of Clayton to enter the site to obtain information required for the review of the erosion and sediment control plan.
- (3) **PERMIT APPLICATION REVIEW AND APPROVAL.** The Town of Clayton shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
 - (a) Within [number] business days of the receipt of a complete permit application, as required by sub. (2), the [administering authority] shall inform the applicant whether the application and erosion and sediment control plan are approved or disapproved based on the requirements of this ordinance.
 - (b) If the permit application and erosion and sediment control plan are approved, the [administering authority] shall issue the permit.
 - (c) If the permit application or erosion and sediment control plan is disapproved, the [administering authority] shall state in writing the reasons for disapproval.
 - (d) The [administering authority] may request additional information from the applicant. If additional information is submitted, the Town of Clayton shall have 5 business days from the date the additional information is received to inform the applicant that the erosion and sediment control plan is either approved or disapproved.
 - (e) Failure by the Town of Clayton to inform the permit applicant of a decision within [number] business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **SURETY BOND.** As a condition of approval and issuance of the permit, the Town of Clayton may require the applicant to deposit a surety bond or irrevocable

letter of credit to guarantee a good faith execution of the approved erosion and sediment control plan and any permit conditions.

(5) **PERMIT REQUIREMENTS.** All permits shall require the responsible party to:

- (a) Notify the Town of Clayton within 48 hours of commencing any land disturbing construction activity.
- (b) Notify the Town of Clayton of completion of any BMPs within 14 days after their installation.
- (c) Obtain permission in writing from the Town of Clayton prior to any modification pursuant to S. 10 (3) of the erosion and sediment control plan.
- (d) Install all BMPs as identified in the approved erosion and sediment control plan.
- (e) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
- (f) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site inspection log.
- (g) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week. Make needed repairs and install additional BMPs as necessary and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
- (h) Allow the [administering authority] to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan. Keep a copy of the erosion and sediment control plan at the construction site.

(6) **PERMIT CONDITIONS.** Permits issued under this section may include conditions established by Town of Clayton in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in S. 07 or S. 08.

- (7) **PERMIT DURATION.** Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Town of Clayton may grant one or more extensions not to exceed 180 days cumulatively. The Town of Clayton may require additional BMPs as a condition of an extension if they are necessary to meet the requirements of this ordinance.
- (8) **MAINTENANCE.** The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

S. 10 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS.

- (1) **EROSION AND SEDIMENT CONTROL PLAN STATEMENT.** For each construction site identified under S. 04 (1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Town of Clayton. The erosion and sediment control plan statement shall briefly describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement.
- (2) **EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS.**
 - (a) An erosion and sediment control plan shall be prepared and submitted to the Town of Clayton.
 - (b) The erosion and sediment control plan shall be designed to meet the performance standards in S. 07*, S. 08* and other requirements of this ordinance.
 - (c) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
 - 1. Name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
 - 2. Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5-minute series topographic map.

3. Description of the intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 4. Estimates of the total area of the construction site and the total area of the construction site that is expected to be disturbed by land disturbing construction activities.
 5. Calculations to show the compliance with the performance standard in S. 08 (3)(b)1.
 6. Existing data describing the surface soil as well as subsoils.
 7. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
 8. Name of the immediate named receiving water from the United States Geological Service 7.5-minute series topographic maps.
- (d) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.
1. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
 2. Boundaries of the construction site.
 3. Drainage patterns and approximate slopes anticipated after major grading activities.
 4. Areas of soil disturbance.
 5. Location of major structural and non-structural controls identified in the erosion and sediment control plan.

6. Location of areas where stabilization BMPs will be employed.
 7. Areas which will be vegetated following land disturbing construction activities.
 8. Area(s) and location(s) of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
 9. Areas(s) used for infiltration of post-construction storm water runoff.
 10. An alphanumeric or equivalent grid overlying the entire construction site map.
- (e) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:
1. Description of interim and permanent stabilization practices, including a BMP implementation schedule. The erosion and sediment control plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 2. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the [administering authority], structural measures shall be installed on upland soils.
 3. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
 4. Trapping of sediment in channelized flow.
 5. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.

6. Protection of downslope drainage inlets where they occur.
 7. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
 8. Clean up of off-site sediment deposits.
 9. Proper disposal of building and waste material.
 10. Stabilization of drainage ways.
 11. Installation of permanent stabilization practices as soon as possible after final grading.
 12. Minimization of dust to the maximum extent practicable.
- (f) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.
- (3) **EROSION AND SEDIMENT CONTROL PLAN AMENDMENTS.** The applicant shall amend the erosion and sediment control plan if any of the following occur:
- (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the erosion and sediment control plan.
 - (b) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
 - (c) The Town of Clayton notifies the applicant of changes needed in the erosion and sediment control plan.

S. 11 FEE SCHEDULE.

The fees referred to in other sections of this ordinance shall be established by the Town of Clayton and may from time to time be modified by Resolution. A schedule of

the fees established by the Town of Clayton shall be available for review in the Clayton Town Hall.

S. 12 INSPECTION.

If land disturbing construction activities are occurring without a permit required by this ordinance, the [administering authority] may enter the land pursuant to the provisions of ss. 66.0119 (1), (2), and (3), Wis. Stats.

S. 13 ENFORCEMENT.

- (1) The Town of Clayton may post a stop work order if any of the following occurs:
 - (a) Land disturbing construction activity regulated under this ordinance is occurring without a permit.
 - (b) The erosion and sediment control plans are not being implemented in good faith.
 - (c) The conditions of the permit are not being met.
- (2) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the Town of Clayton may revoke the permit.
- (3) If the responsible party, where no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the Town of Clayton, or if a responsible party violates a stop work order posted under sub. (1), the Town of Clayton may request the Town Attorney, to obtain a cease and desist order in any court with jurisdiction.
- (4) The Town of Clayton Town of Clayton, Board of Appeals, may retract the stop work order issued under sub. (1) or the permit revocation under sub. (2).
- (5) After posting a stop work order under sub. (1), the [administering authority] may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The [administering authority] may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Town of Clayton , plus interest at the rate authorized by Town of Clayton shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to sub ch. VII of ch. 66, Wis. Stats.

- (6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than [amount] nor more than [amount] and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (7) Compliance with the provisions of this ordinance 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.

S. 14 APPEALS.

- (1) **BOARD OF APPEALS:** The Board of Appeals created pursuant to section [number] of the Town's Ordinance pursuant to s. 60.65, or 62.23 (7)(e)], Wis. Stats:
 - (a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town of Clayton in administering this ordinance except for cease and desist orders obtained under S. 13* (3).
 - (b) May authorize, upon appeal, variances from the provisions of this Ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
 - (c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (2) **WHO MAY APPEAL.** Appeals to the Board of Appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the Town of Clayton affected by any decision of the Town of Clayton.

S. 15 SEVERABILITY.

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

S. 16 EFFECTIVE DATE.

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Town Board of the Town of Clayton on the [number] day of [month], [year].

Dated this ____ day of _____, 2018.

TOWN OF CLAYTON

Russell Geise, Town Chair

Kay Lettau

Linda Grundman

Ann Schmidt

Scott Reif

ATTEST:

Richard Johnston, Clerk

E 41										
E 42										
E 43										
E 44										
E 45	PART TIME WAGES	\$ 4,000.00	\$ 170.00	\$ 255.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	Wages for mowing Town ditches and tree trimming.
E 46	FICA	\$ 306.00	13.01	\$ 19.52	\$ 306.00	\$ 306.00	\$ 306.00	\$ 306.00	\$ 306.00	Associated employment taxes
E 47	PUBLIC WORKS WAGES	\$ 50,000.00	\$ 33,333.33	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	Public Works Department Wages Assigned to the Utility based on force account labor project costs.
E 48	FICA	3,825.00	2,550.00	3,825.00	\$ 3,825.00	3,825.00	3,825.00	3,825.00	3,825.00	Associated employment taxes
E 49	RETIREMENT	\$ 3,300.00	\$ 2,200.00	\$ 3,300.00	\$ 3,400.00	\$ 3,400.00	\$ 3,400.00	\$ 3,400.00	\$ 3,400.00	Estimated cost based on the required contribution to the State Retirement System divided by 2
E 50	HEALTH INSURANCE	\$ 13,000.00	\$ 8,666.66	\$ 13,000.00	\$ 14,000.00	\$ 13,000.00	\$ 13,000.00	\$ 13,000.00	\$ 13,000.00	Estimated cost based on Health Insurance rates established by the Provider
E 51	UTILITY PROJECT COSTS	\$ 37,000.00	\$ 22,115.33	\$ 33,173.00	\$ 40,000.00	\$ 40,000.00	\$ 40,000.00	\$ 40,000.00	\$ 40,000.00	Costs of material for projects, projects that are bid for by a third party, and Grant Matching Funds
E 52	UTILITY EQUIPMENT RENTAL	\$ 5,000.00	\$ 3,426.50	\$ 5,139.75	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	Equipment rental costs for projects completed with Force Account Labor.
E 53	UTILITY MAINTENANCE		\$ 315.50	\$ 473.25	\$ 750.00	\$ 750.00	\$ 750.00	\$ 750.00	\$ 750.00	Costs of supplies for projects completed with Force Account Labor.
E 54	UTILITY ENGINEERING COSTS	\$ 5,000.00	\$ 500.00	\$ 750.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	Costs of Engineering for Utility projects.
E 55	PRORATED CAPITAL EQUIPMENT				\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	Utility Prorated Capital Replacement Fund Contribution for the Backhoe and a Utility Truck.
E 56	DIESEL FUEL	\$ 6,000.00	\$ 4,500.00	\$ 6,750.00	\$ 7,000.00	\$ 7,000.00	\$ 7,000.00	\$ 7,000.00	\$ 7,000.00	Diesel fuel for machinery and equipment.
E 57	UTILITY AUDIT FEES	\$ 2,500.00	\$ 1,365.00	\$ 2,500.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	Fees to Audit the Utility Budget and expenditures.
E 58	DEBT SERVICE PRINCIPAL	\$ 35,965.00	\$ 36,952.31	\$ 36,952.31						Principal on the Loan from the Town of Menasha
E 59	DEBT SERVICE INTEREST	\$ 2,005.00	\$ 1,016.19	\$ 1,016.19						Interest on the Loan from the Town of Menasha
E 60	UTILITY FEE REFUNDS	\$ 1,000.00	\$ 777.00	\$ 777.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	
E 61	TOTAL UTILITY COSTS	\$ 168,901.00	\$ 117,900.83	\$ 157,931.01	\$ 169,781.00	\$ 168,781.00	\$ 168,781.00	\$ 168,781.00	\$ 168,781.00	
E 62										
E 63	TOTAL OPERATING COSTS		\$ 323,798.21	\$ 489,284.10	\$ 498,550.40	\$ 499,241.65	\$ 499,241.65	\$ 499,241.65	\$ 499,241.65	

R 20	STORMWATER MANAGEMENT	CY2016	CY2016	CY2016	CY2017	CY2017	CY2017	CY2017	NOTES
R 21	UTILITY REVENUE	APPROVED	YEAR TO	PROJECTED AS OF	STAFF	ADMINISTRATOR'S	TOWN BOARD	TOWN BOARD	
R 22			DATE	SEPTEMBER 1st, 2016	RECOMMENDATION	RECOMMENDATION	RECOMMENDATION	APPROVED	
R 23									
R 24	STORM WATER MANAGEMENT UTILITY	\$ 170,000.00	\$ 166,625.40	\$ 167,000.00	\$ 170,000.00	\$ 170,000.00	\$ 170,000.00	\$ 170,000.00	Utility Revenue generated on an REU Special Assessment Fee paid with the Town's Tax Bills.
R 25	GENERAL UNANTICIPATED REVENUE								
R 26	SALE OF SLAVAGE MATERIAL								
R 27	TOTAL	\$ 170,000.00	\$ 166,625.40	\$ 167,000.00	\$ 170,000.00	\$ 170,000.00	\$ 170,000.00	\$ 170,000.00	
R 28									
R 29	TOTAL REVENUE	\$ 490,200.00	\$ 484,508.63	\$ 489,184.65	\$ 499,200.00	\$ 499,200.00	\$ 499,200.00	\$ 499,200.00	

E 43	STORM WATER MANAGEMENT UTILITY	CY2018 STAFF RECOMMENDATION	CY2018 ADMINISTRATOR'S RECOMMENDATION	NOTES
E 44				
E 45				
E 46				
E 47	PART TIME WAGES	\$ 4,000.00	\$ 4,000.00	Wages for mowing Town ditches and tree trimming.
E 48	FICA	\$ 306.00	\$ 306.00	Associated employment taxes
E 49	PUBLIC WORKS WAGES	\$ 60,000.00	\$ 60,000.00	Public Works Department Wages Assigned to the Utility based on force account labor project costs.
E 50	FICA	\$ 4,590.00	\$ 4,590.00	Associated employment taxes
E 51	RETIREMENT	\$ 4,020.00	\$ 4,020.00	Estimated cost based on the required contribution to the State Retirement System divided by 2
E 52	HEALTH INSURANCE	\$ 13,000.00	\$ 13,000.00	Estimated cost based on Health Insurance rates established by the Provider
E 53	UTILITY PROJECT COSTS	\$ 40,000.00	\$ 40,000.00	Costs of material for projects, projects that are bid for by a third party, and Grant Matching Funds
E 54	UTILITY EQUIPMENT RENTAL	\$ 5,000.00	\$ 5,000.00	Equipment rental costs for projects completed with Force Account Labor.
E 55	UTILITY MAINTENANCE	\$ 2,900.00	\$ 2,900.00	Costs of supplies for projects completed with Force Account Labor.
E 56	UTILITY ENGINEERING COSTS	\$ 5,000.00	\$ 5,000.00	Costs of Engineering for Utility projects.
E 57	PRORATED CAPITAL EQUIPMENT	\$ 48,284.00	\$ 48,284.00	Utility Prorated Capital Replacement Fund Contribution for the Backhoe and a Utility Truck.
E 58	DIESEL FUEL	\$ 5,000.00	\$ 5,000.00	Diesel fuel for machinery and equipment.
E 59	UTILITY AUDIT FEES	\$ 8,000.00	\$ 8,000.00	Fees to Audit the Utility Budget and expenditures.
E 60	COUNTY BRIDGE AID PROJECT	\$ 50,000.00	\$ 50,000.00	Prorated Capital Replacement Fund Contribution for equipment used by the Utility.
E 61	UTILITY FEE REFUNDS	\$ 1,000.00	\$ 1,000.00	Refunds for properties with onsite storm water management devices.
E 62				
E 63	TOTAL OPERATING COSTS	\$ 251,100.00	\$ 251,100.00	
E 64				

R	16	STORMWATER MANAGEMENT UTILITY REVENUE	CY2018 STAFF RECOMMENDATION	CY2018 ADMINISTRATOR'S RECOMMENDATION	NOTES
R	17				
R	18				
R	19				
R	20	STORM WATER MANAGEMENT UTILITY	\$ 185,000.00	\$ 226,100.00	Utility Revenue generated on an REU Fee increase to \$80.00 for CY 2018.
R	21	COUNTY BRIDGE AIDS REVENUE	\$ 25,000.00	\$ 25,000.00	County Bridge Aids Revenue Transferred from the Town's General Fund.
R	22	SALE OF SLAVAGE MATERIAL			
R	23	TOTAL	\$ 210,000.00	\$ 251,100.00	
R	24				
R	25	TOTAL REVENUE	\$ 546,400.00	\$ 587,500.00	

TOWN OF CLAYTON
CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL
ORDINANCE
CHAPTER 7.11

DRAFT

POST-CONSTRUCTION STORM WATER MANAGEMENT

S. 01 AUTHORITY:

- (1) This Ordinance is adopted by the Town of Clayton under the authority granted by s. 60.627, Wis. Stats. This Ordinance supersedes all provisions of an Ordinance previously enacted under s. 60.62, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in s. 60.627, Wis. Stats., s. 60.62, Wis. Stats., applies to this Ordinance and to any amendments to this Ordinance.
- (2) The provisions of this Ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Town of Clayton hereby designates the Town Administrator to administer and enforce the provisions of this Ordinance.
- (4) The requirements of this Ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

S. 02 FINDINGS OF FACT:

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

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loading.

- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

S. 03 PURPOSE AND INTENT:

- (1) **PURPOSE:** The general purpose of this Ordinance 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:
 - (a) Further the maintenance of safe and healthful conditions.
 - (b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; and control increases in the scouring and transportation of particulate matter.
 - (d) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.
- (2) **INTENT.** It is the intent of the Town of Clayton that this Ordinance regulates post-construction storm water discharges to waters of the state. This Ordinance may be applied on a site-by-site basis. The Town of Clayton recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this Ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the Town of Clayton, it is the intent of this Ordinance that the approved storm water management plan be used to identify post-construction management measures acceptable for the community.

S. 04 APPLICABILITY AND JURISDICTION.

- (1) **APPLICABILITY:**
 - (a) Except as provided under par. (b), this Ordinance applies to a post-construction site whereupon one acre or more of land disturbing construction activity occurs during construction.

- (b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this Ordinance:
 - 1. A post-construction site with less than ten percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of this Ordinance.
 - 2. Agricultural facilities and practices.
 - 3. Underground utility construction, but not including the construction of any above ground structures associated with utility construction.
- (c) Notwithstanding the applicability requirements in par. (a), this Ordinance applies to post-construction sites of any size that, as determined by the Town Administrator, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, causes undue channel erosion, or increases water pollution by scouring or the transportation of particulate matter.

(2) JURISDICTION:

This Ordinance applies to post construction sites within the boundaries and jurisdiction of the Town of Clayton;

(3) EXCLUSIONS:

This Ordinance is not applicable to activities conducted by a State Agency, as defined under s. 227.01 (1), Wis. Stats.

S. 05 DEFINITIONS:

- (1) “Adequate sod, or self-sustaining vegetative cover” means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.
- (2) “Administering authority” means a governmental employee, or a regional planning commission empowered under s. 60.627; Wis. Stats., that is designated by the Town of Clayton to administer this Ordinance.
- (3) “Agricultural facilities and practices” has the meaning given in s. 281.16 (1), Wis. Stats.

- (4) “Atlas 14” means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.
- (5) “Average annual rainfall” means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.
- (6) “Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (7) “Business day” means a day the office of the Town Administrator is routinely and customarily open for business.
- (8) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the Town Administrator.
- (9) “Combined sewer system” means a system for conveying both sanitary sewage and storm water runoff.
- (10) “Connected imperviousness” means an impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.
- (11) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (12) “Development” means residential, commercial, industrial or institutional land uses and associated roads.
- (13) “Direct conduits to groundwater” means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.
- (14) “Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (15) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.
- (16) “Exceptional resource waters” means waters listed in s. NR 102.11, Wis. Adm. Code.

- (19) "Filtering layer" means 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 regulatory authority for the site.
- (20) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (21) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Town Administrator by the responsible party to assure that requirements of the Ordinance are carried out in compliance with the storm water management plan.
- (22) "Governing body" means Town Board of Supervisors.
- (23) "Impervious surface" means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, gravel or paved parking lots and streets are examples of areas that typically are impervious.
- (24) "In-fill" means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.
- (25) "Infiltration" means the entry of precipitation or runoff into or through the soil.
- (26) "Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (27) "Land disturbing construction activity" means 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 sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (28) "Landowner" means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.

- (29) “Maintenance agreement” means a legal document that provides for long-term maintenance of storm water management practices.
- (30) “Maximum extent practicable” means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this Ordinance as determined in accordance with S. 055 of this Ordinance.
- (31) “New development” means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (32) “NRCS MSE3 or MSE4 distribution” means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.
- (33) “Off-site” means located outside the property boundary described in the permit application.
- (34) “On-site” means located within the property boundary described in the permit application.
- (35) "Ordinary high-water mark" has the meaning given in s. NR 115.03 (6), Wis. Adm. Code.
- (36) “Outstanding resource waters” means waters listed in s. NR 102.10, Wis. Adm. Code.
- (37) "Percent fines" means the percentage of a given sample of soil, which passes through a # 200 sieve.
- (38) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (39) “Permit” means a written authorization made by the Town Administrator to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (40) “Permit administration fee” means a sum of money paid to the Town Administrator by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (41) “Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
- (42) “Pollutant” has the meaning given in s. 283.01 (13), Wis. Stats.
- (43) “Pollution” has the meaning given in s. 281.01 (10), Wis. Stats.

- (44) "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (45) "Pre-development condition" means 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.
- (46) "Preventive action limit" has the meaning given in s. NR 140.05 (17), Wis. Adm. Code.
- (47) "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.
- (48) "Redevelopment" means areas where development is replacing older development.
- (49) "Responsible party" means the landowner or any other entity performing services to meet the requirements of this Ordinance through a contract or other agreement. "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (50) "Separate storm sewer" means 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.
- (51) "Silviculture activity" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control.
- (52) Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (53) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (54) "Stop work order" means an order issued by the Town Administrator which requires that all construction activity on the site be stopped.

- (55) “Storm water management plan” means a comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.
- (56) “Storm water management system plan” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (57) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (58) “Top of the channel” means 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 percent continually for at least 50 feet. If the slope of the land is 12 percent 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.
- (59) "Total maximum daily load" or "TMDL" means 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.
- (60) “TP-40” means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.
- (61) "TR-55" means the United States department of agriculture, natural resources conservation service (previously soil conservation service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.
- (62) “Transportation facility” means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 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 Department pursuant to s. 281.33, Wis. Stats.
- (63) “TSS” means total suspended solids.
- (64) “Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published in 1973”.
- (65) “Waters of the state” includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

S. 055 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE:

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

S. 06 TECHNICAL STANDARDS:

The following methods shall be used in designing the water quality, peak discharge, and infiltration components of storm water practices needed to meet the water quality standards of this Ordinance:

- (1) Consistent with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) 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 Town Administrator.

S. 07 PERFORMANCE STANDARDS:

- (1) **RESPONSIBLE PARTY:** The responsible party shall comply with this section.
- (2) **STORM WATER MANAGEMENT PLAN:** A written storm water management plan in accordance with S. 09 shall be developed and implemented for each post-construction site.
- (3) **MAINTENANCE OF EFFORT:** For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this Ordinance, whichever is more stringent.
- (4) **REQUIREMENTS:** The storm water management plan required under sub. (2) shall include the following:
 - (a) **TOTAL SUSPENDED SOLIDS:** BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

1. BMPs shall be designed in accordance with Table 1. or to the maximum extent practicable as provided in subd. 2. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

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

2. **Maximum Extent Practicable.** If the design cannot meet a total suspended solids reduction performance standard of Table 1., the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.
3. **Off-Site Drainage.** When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

(b) **PEAK DISCHARGE:**

1. By design, BMPs shall be employed to maintain or reduce the 1-year, 24-hour; and the 2-year, 24-hour post-construction peak runoff discharge rates to the 1-year, 24-hour; and the 2-year, 24-hour pre-development peak runoff discharge rates respectively, or to the maximum extent practicable. The runoff curve numbers in Table 2. shall be used to represent the actual pre-development conditions. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, the Town Administrator may allow the use of TP-40 precipitation depths and the Type II distribution.

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

Cropland	55	69	78	83
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2. This subsection of the Ordinance does not apply to any of the following:

- a. A post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.
- b. Except as provided under S. 07 (3), a redevelopment post-construction site.
- c. An in-fill development area less than 5 acres.

(c) INFILTRATION:

- 1. Best Management Practices: BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
 - a. *Low imperviousness:* For development 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 percent of the post-construction site is required as an effective infiltration area.
 - b. *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 2 percent of the post-construction site is required as an effective infiltration area.
 - c. *High imperviousness:* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 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 2 percent of the post-construction site is required as an effective infiltration area.

2. Pre-development: The pre-development condition shall be the same as specified in Table 2 of the Peak Discharge section of this Ordinance.

3. Source Areas.

a. *Prohibitions:* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in S. 07 (4)(c)6:

i. Areas associated with a tier 1 industrial facility identified in s. NR 216.21 (2)(a), including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.

ii. Storage and loading areas of a tier 2 industrial facility identified in s. NR 216.21 (2)(b).

iii. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

b. *Exemptions:* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:

i. Parking areas and access roads less than 5,000 square feet for commercial development.

ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under par

iii. Except as provided under S. 07 (3), redevelopment post-construction sites.

iv. In-fill development areas less than 5 acres.

v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.

4. Location of Practices:

- a. *Prohibitions:* Infiltration practices may not be located in the following areas:
 - i. Areas within 1000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.
 - ii. Areas within 400 feet of a community water system well as specified in s. NR 811.16 (4) or within the separation distances listed in s. NR 812.08 for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial and institutional land uses or regional devices for one- and two-family residential development.
 - iii. Areas where contaminants of concern, as defined in s. NR 720.03 (2), are present in the soil through which infiltration will occur.
- b. *Separation distances:*
 - i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

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

- ii. Notwithstanding par. b., applicable requirements for injection wells classified under ch. NR 815 shall be followed.
- c. *Infiltration rate exemptions.* Infiltration practices located in the following areas may be credited toward meeting the requirements

under the following conditions, but the decision to infiltrate under these conditions is optional:

- i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
 - ii. Where the least permeable soil horizon to 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.
5. Alternate Use: Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.
6. Groundwater Standards:
 - a. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
 - b. Notwithstanding par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
7. Pretreatment: Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 6. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

8. Maximum Extent Practicable: Where the conditions of subd. 3. and 4. limit or restrict the use of infiltration practices, the performance standard of S. 07 (4)(c) shall be met to the maximum extent practicable.

(d) PROTECTIVE AREAS:

1. Definition. In this section, “protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.
 - a. For outstanding resource waters and exceptional resource waters, 75 feet.
 - b. For perennial and intermittent streams identified on a U.S. Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
 - c. For lakes, 50 feet.
 - d. For wetlands not subject to par. e. or f., 50 feet.
 - e. 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.
 - f. 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 wetland dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
 - g. In pars. d. to f., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.
 - h. Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state

and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

- i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
 - j. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.
2. Applicability. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
3. Requirements. The following requirements shall be met:
 - a. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written, site-specific explanation.
 - b. 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 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.
 - c. BMPs such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.
4. Exemptions: This section does not apply to any of the following:
 - a. Except as provided under S. 07 (3), redevelopment post-construction sites.
 - b. In-fill development areas less than 5 acres.

- c. Structures that cross or access surface water such as boat landings, bridges, and culverts.
 - d. Structures constructed in accordance with s. 59.692 (1v), Stats.
 - e. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local Ordinance requirements for total suspended solids and peak flow reduction, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- (e) **FUELING AND MAINTENANCE AREAS:** Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.
- (f) **SWALE TREATMENT FOR TRANSPORTATION FACILITIES.**
 - 1. Requirement. Except as provided in subd. 2., transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of local Ordinance requirements for peak flow control, total suspended solids control, and infiltration, if the swales are designed to do all of the following or to the maximum extent practicable:
 - a. Swales: shall be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 - b. Swales shall comply with sections: V.F. (Velocity and Depth) and V.G. (Slope Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Infiltration Swales", dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.
 - 2. Other requirements:
 - a. Notwithstanding subd. 1., the Town Administrator may, consistent with water quality standards, require that other requirements, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2,500 and where the initial

surface water of the state that the runoff directly enters is one of the following:

- i. An outstanding resource water.
 - ii. An exceptional resource water.
 - iii. Waters listed in section 303 (d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to non-point source impacts.
 - iv. Water where targeted performance standards are developed pursuant to s. NR 151.004, Wis. Adm. Code.
- b. The transportation facility authority shall contact the Town Administrator to determine if additional BMPs beyond a water quality swale are needed under this subsection.

(5) GENERAL CONSIDERATIONS FOR STORM WATER MANAGEMENT MEASURES:

The following considerations shall be observed in on-site and off-site runoff management:

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

(6) BMP LOCATION:

- (a) To comply with the performance standards required under S. 07 of this Ordinance, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003, Wis. Adm. Code.
- (b) The Town Administrator may approve off-site management measures provided that all of the following conditions are met:
 1. The Town Administrator determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Town of Clayton and that contains management requirements consistent with the purpose and intent of this Ordinance.
 2. The off-site facility meets all of the following conditions:

- a. The facility is in place.
 - b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this Ordinance.
 - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- (c) Where a regional treatment option exists such that the Town Administrator exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Town Administrator. In determining the fee for post-construction runoff, the Town Administrator shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (7) **ADDITIONAL REQUIREMENTS:** The Town Administrator may establish storm water management requirements more stringent than those set forth in this Ordinance if the Town Administrator determines that the requirements are needed to control storm water quantity or control flooding, comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

S. 08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES:

- (1) **PERMIT REQUIRED:** No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Town Administrator prior to commencing the proposed activity.
- (2) **PERMIT APPLICATION AND FEES:** Unless specifically excluded by this Ordinance, any responsible party desiring a permit shall submit to the Town Administrator a permit application on a form provided by the Town Administrator for that purpose.
 - (a) Unless otherwise excluded by this Ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.
 - (b) The storm water management plan shall be prepared to meet the requirements of S. 07 and S. 09, the maintenance agreement shall be prepared to meet the requirements of S. 10, the financial guarantee shall meet the requirements of S. 11, and fees shall be those established by the Town of Clayton as set forth in S. 12.

- (3) **PERMIT APPLICATION REVIEW AND APPROVAL.** The Town Administrator shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
- (a) Within [number] business days of the receipt of a complete permit application, including all items as required by sub. (2), the Town Administrator shall inform the applicant whether the application, storm water management plan and maintenance agreement are approved or disapproved based on the requirements of this Ordinance.
 - (b) If the storm water permit application, storm water management plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Town Administrator shall issue the permit.
 - (c) If the storm water permit application, storm water management plan or maintenance agreement is disapproved, the Town Administrator shall detail in writing the reasons for disapproval.
 - (d) The Town Administrator may request additional information from the applicant. If additional information is submitted, the Town Administrator shall have [number] business days from the date the additional information is received to inform the applicant that the storm water management plan and maintenance agreement are either approved or disapproved.
 - (e) Failure by the Town Administrator to inform the permit applicant of a decision within [number] business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **PERMIT REQUIREMENTS:** All permits issued under this Ordinance shall be subject to the following conditions, and holders of permits issued under this Ordinance shall be deemed to have accepted these conditions. The Town Administrator may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Town Administrator to suspend or revoke this permit may be appealed in accordance with S. 14.
- (a) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 - (b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.

- (c) The responsible party shall notify the Town Administrator at least 5 business days before commencing any work in conjunction with the storm water management plan, and within [number] business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the Town Administrator so that practice installations can be inspected during construction.
- (e) Practice installations required as part of this Ordinance shall be certified "as built" or "record" drawings by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Town Administrator or its designee to determine if they are in accordance with the approved storm water management plan and Ordinance. The Town Administrator 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.
- (f) The responsible party shall notify the Town Administrator of any significant modifications it intends to make to an approved storm water management plan. The Town Administrator may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
- (g) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Town of Clayton or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (h) The responsible party authorizes the Town Administrator to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under S. 11.
- (i) If so directed by the Town Administrator, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
- (j) The responsible party shall permit property access to the Town Administrator or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
- (j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Town Administrator may require the responsible party to make appropriate legal

arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

- (k) The responsible party is subject to the enforcement actions and penalties detailed in S. 13, if the responsible party fails to comply with the terms of this permit.
- (5) **PERMIT CONDITIONS.** Permits issued under this subsection may include conditions established by Town Administrator in addition to the requirements needed to meet the performance standards in S. 07 or a financial guarantee as provided for in S. 11.
- (6) **PERMIT DURATION.** Permits issued under this section shall be valid from the date of issuance through the date the Town Administrator notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d).

S. 09 STORM WATER MANAGEMENT PLAN.

- (1) **STORM WATER MANAGEMENT PLAN REQUIREMENTS:** The storm water management plan required under S. 07 (2) shall contain at a minimum the following information:
 - (a) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
 - (b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
 - (c) Pre-development site conditions, including:
 - 1. One or more site maps at a scale of not less than 1-inch equals 50-feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed [number] feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead

protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.

2. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

(d) Post-development site conditions, including:

1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and Ordinances.
3. One or more site maps at a scale of not less than 1 inch equals [number] feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed [number] feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed

drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.

- (e) A description and installation schedule for the storm water management practices needed to meet the performance standards in S. 07.
 - (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - (h) Other information requested in writing by the Town Administrator to determine compliance of the proposed storm water management measures with the provisions of this Ordinance.
 - (i) All site investigations, plans, designs, computations, and drawings shall be certified by a [licensed professional engineer] to be prepared in accordance with accepted engineering practice and requirements of this Ordinance.
- (2) **ALTERNATE REQUIREMENTS:** The Town Administrator may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under S. 07 (5).

S. 10 MAINTENANCE AGREEMENT:

- (1) **MAINTENANCE AGREEMENT REQUIRED:** The maintenance agreement required under S. 08 (2) for storm water management practices shall be an agreement between the Town Administrator and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by S. 09 (1)(f):
 - (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under S. 08 (2).

- (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under S. 08 (2).
- (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).
- (e) Authorization for the Town Administrator to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- (f) A requirement on the Town Administrator to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
- (g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the Town Administrator of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Town Administrator.
- (h) Authorization of the Town Administrator to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The Town Administrator 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 ch. 66, Wis. Stats.

S. 11 FINANCIAL GUARANTEE:

- (1) **ESTABLISHMENT OF THE GUARANTEE:** The Town Administrator may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Town Administrator. The financial guarantee shall be in an amount determined by the Town Administrator to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Town Administrator the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the Town Administrator that the requirements of this Ordinance have not been met.
- (2) **CONDITIONS FOR RELEASE:** Conditions for the release of the financial guarantee are as follows:

- (a) The Town Administrator shall release the portion of the financial guarantee established under this section, less any costs incurred by the Town Administrator to complete installation of practices, upon submission of "as built plans" or "record" drawings by a licensed professional engineer. The Town Administrator may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
- (b) The Town Administrator shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Town Administrator, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

S. 12 FEE SCHEDULE:

The fees referred to in other sections of this Ordinance shall be established by the Town Board and may from time to time be modified by Resolution. A schedule of the fees established by the Town Administrator shall be available for review in the Town's Fee Schedule.

S. 13 ENFORCEMENT.

- (1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this Ordinance by any person, firm, association, or corporation subject to the Ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this Ordinance.
- (2) The Town Administrator 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.
- (3) Upon receipt of written notification from the Town Administrator under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Town Administrator in the notice.
- (4) If the violations to a permit issued pursuant to this Ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Town Administrator may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Town Administrator plus interest and legal costs shall be billed to the responsible party.
- (5) The Town Administrator is authorized to post a stop work order on all land disturbing construction activity that is in violation of this Ordinance, or to request the [municipal

attorney, corporation counsel] to obtain a cease and desist order in any court with jurisdiction.

- (6) The Town Administrator may revoke a permit issued under this Ordinance for non-compliance with Ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Town Administrator or by a court with jurisdiction.
- (8) The Town Administrator is authorized to refer any violation of this Ordinance, or a stop work order or cease and desist order issued pursuant to this Ordinance, to the Town Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) Any person, firm, association, or corporation who does not comply with the provisions of this Ordinance shall be subject to a forfeiture of not less than [number] dollars or more than [number] dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Compliance with the provisions of this Ordinance 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.
- (11) When the Town Administrator determines that the holder of a permit issued pursuant to this Ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the Town Administrator or a party designated by the Town Administrator 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 storm water management plan. The Town Administrator 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 S. 11 of this Ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

S. 14 APPEALS.

- (1) **BOARD OF APPEALS:** The Board of Appeals, created pursuant to section [number] of the Town of Clayton Ordinances pursuant to s. 60.65, Wis. Stats., shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town Administrator in administering this Ordinance. The Board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this

Ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the Ordinance will result in unnecessary hardship.

- (2) **WHO MAY APPEAL.** Appeals to the board of Appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the Town of Clayton affected by any decision of the Town Administrator.

S. 15 SEVERABILITY.

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

S. 16 EFFECTIVE DATE.

This Ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing Ordinance was duly adopted by the Town Board of the Town of Clayton on the [number] day of [month], [year].

Dated this ____ day of _____, 2018.

TOWN OF CLAYTON

Russell Geise, Town Chair

Kay Lettau

Linda Grundman

Ann Schmidt

Scott Reif

ATTEST:

Richard Johnston, Clerk

TOWN OF CLAYTON

STORM WATER UTILITY ORDINANCE

CHAPTER 6 PUBLIC WORKS

SECTION 6.7 STORM WATER MANAGEMENT UTILITY

6.7.1 PURPOSE:

1) Findings and Necessity:

- a) The Town of Clayton finds that the management of storm water and other surface water discharged within the Town is a matter that affects the health, safety and welfare of the Town's residents, businesses and others in the surrounding area. Failure to effectively manage storm water affects surface water runoff and may create erosion of lands, threaten businesses and residences with water damage, and create sedimentation and other environmental damage in the Town's drainage systems. Those elements of the system which provide for the collection and disposal of storm water are of benefit and provide services to all properties within the Town of Clayton. The cost of operating and maintaining the Town's Storm Water Management System and the costs of financing necessary repairs, replacements, improvements and extensions thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received. In order to protect the health, safety and welfare of the public, the Town Board is exercising its authority, under Chapters 60 and 66 of the Wisconsin Statutes, to establish a Storm Water Utility and set the rates for Storm Water Management Services.

2) Creation:

- a) The Town Board for the Town of Clayton does hereby establish a Storm Water Utility. The operation of the Storm Water Utility shall be under the supervision of the Town Board. Control of the day-to-day operations of the Storm Water Utility shall be assigned to the Town Administrator and the Public Works Department.

6.7.2 AUTHORITY:

This ordinance is adopted under the authority granted by § 60.77(5), 66.0821 and 66.0827 of the Wisconsin Statutes and shall be known as the Town of Clayton Storm Water Utility Ordinance.

- 1) The Town of Clayton Board of Supervisors shall serve as the Storm Water Utility Commission and exercise due authority pursuant to § 60.74 through 60.79 of the Wisconsin Statutes. This includes the authority to fix and collect charges, to levy special assessments, to lease or acquire any real and personal property that may be needed for the purposes of storm

water management, and to enact and enforce ordinances to implement this authority. The Town Chairman shall serve as the President of the Storm Water Utility Commission, and the Town Supervisors shall serve as Commissioners.

- 2) The Storm Water Utility may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the Storm Water Utility Commission to be proper and reasonably necessary for a system of storm and surface water drainage facilities, sewers, watercourses, retaining walls, ponds, streets, roads, ditches and such other facilities for purposes of supporting a storm water management system.
- 3) The Board of Supervisors hereby designates the Town Administrator to administer and enforce the provisions of this ordinance.

6.7.3 **INTERPRETATION:**

In their interpretation and application, the provisions of this ordinance shall be interpreted liberally to secure the ends sought hereby and shall not be deemed a limitation or repeal of any other power granted to the Town by the Wisconsin Statutes.

6.7.4 **DEFINITIONS:**

For the purposes of this Ordinance, the following definitions shall apply: words used in the singular shall include the plural, and words used in the plural shall include the singular; words used in the present tense shall include the past and future tense; the word 'shall' is mandatory and not discretionary; the word 'may' is permissive and discretionary. Words not defined herein shall be construed to have the meaning given by common and ordinary usage.

- 1) **Agricultural Property:**
Lands used for the planting, growing, cultivating, and harvesting of crops and/or trees; or for the grazing of livestock.
- 2) **Impervious Area or Impervious Surface:**
A horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rain water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay or gravel, streets, roofs, sidewalks, parking lots and other similar surfaces.
- 3) **Duplex Unit:**
Any residential space identified for habitation by two separate family units and or classified by the Town Building and County Zoning Codes as a Duplex.
- 4) **Dwelling Unit:**
A residential building, or portion thereof, intended for occupancy by a single family, or as classified by the Town Building Code and Zoning Code of Ordinances in effect. A dwelling

unit includes, but is not limited to, single family homes, manufactured homes, duplexes, multi-family apartments, residential condominiums and townhouse living units.

5) Equivalent Runoff Unit (ERU):

The statistical average horizontal impervious area of “single family homes” within the Town of Clayton on the date of adoption of this ordinance. The horizontal impervious areas include, but are not limited to, all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks. A copy of the Engineering Study generation of the ERU area is kept on file in the Clerk’s Office of the Town of Clayton.

6) Multifamily Unit:

Any structure comprised of five or more dwelling units.

7) Non-residential Property:

Any developed lot or parcel not exclusively residential as defined herein, including, but not limited to, transient rentals (such as hotels and motels), commercial, industrial, institutional, governmental properties and parking lots.

8) Residential Property:

Any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, manufactured homes, duplexes, multi-family apartments, residential condominiums and townhouses.

9) Undeveloped Property:

That which has not been altered from its natural state by the addition of any improvements such as a building, structure, impervious surface, change of grade, or landscaping. For new construction, a property shall be considered developed pursuant to this Ordinance under the following conditions:

- a) Upon issuance of a Certificate of Occupancy.
- b) Upon completion of construction or final inspection if no such certificate is issued.
- c) Where construction is at least fifty (50%) percent complete and construction is halted for a period of three (3) months.

6.7.5 **RATES AND CHARGES:**

1) Rate Charges:

- a) By this Ordinance, the Town Board is establishing the rate Classification and basis for computation of charges for storm water services for each lot and parcel within the Town of Clayton for services and facilities provided by the Storm Water Utility. The actual charges to be imposed, the establishment of formulas for calculations of the charges, the establishment of specific customer classifications and any future changes in those rates, formulas, and customer classifications, may be made by Resolution. All rates established pursuant to this Ordinance will be fair and reasonable. The current rates will be on file with the Town Clerk.

b) Rate charges shall be issued to share the costs of the Storm Water Utility. These rate charges may include:

i) Equivalent Runoff Unit Charge (ERU Charge):

This charge may be imposed on all properties in the Town. The ERU Charge will be determined on the basis of a typical residential unit of property. Other units of property will be charged multiples of the ERU based on the impervious area contributing to surface water runoff.

6.7.6 ADMINISTRATION:

- 1) The Town of Clayton and Winnebago County Offices are hereby appointed as the collection agencies for the Storm Water Utility. A schedule of charges shall be sent on an annual basis by the Storm Water Utility to the Town of Clayton. The Town Board shall allocate the actual costs of billing and collecting.
- 2) The bills from Storm Water Utility charges shall be applied annually to real estate property tax bills and shall be paid in accordance with terms stated thereon.

6.7.7 CUSTOMER CLASSIFICATION:

The Town Board may make such other classifications as will be likely to provide reasonable and fair distribution of the costs of the Storm Water Utility. In so doing, the Town Board may provide credits against certain of the charges set forth above for facilities installed and maintained by the property owner for the purpose of lessening the Storm Water flow from a given property.

- 1) Residential, Single-Family (all single family residential units based on property use not zoning).
- 2) Residential, Two- to-Four-Family (including duplexes, condominiums, and manufactured housing parks).
- 3) Residential, Multi-Family (apartment complexes greater than four units).
- 4) Non-Residential (industrial commercial and institutional properties).
- 5) Undeveloped Land.

6.7.8 STORM WATER MANAGEMENT UTILITY FEE FORMULAS:

Storm Water Management Utility Fees are calculated by dividing the costs of the projects as approved by the Board for the CY Budget by the number of ERU's in the Town. The ERU Fee would be applied in the following manner:

- | | |
|--|---|
| 1) Residential; Single-Family: | 1.00 ERU Fee |
| 2) Residential; Two to Four Family Units,
Condominiums, and Manufactured Housing Parks: | 0.66 ERU Fee per unit |
| 3) Residential; Multi-Family: | 0.50 ERU Fee per unit |
| 4) Non-Residential: | 1.00 ERU Fee per (impervious area / ERU) with a
minimum charge of 1.00 ERU |

5) Undeveloped and Agricultural Land:

.25 ERU Fee per Tax ID Parcel

6.7.9 **STORM WATER UTILITY CREDITS AND APPEALS:**

Non-residential property owners are eligible for credits against their Storm Water Management Utility Fees based on certain criteria. These credits are customarily based on engineered on-site storm water management devices and limited by a cap on the fee credit. Specifically, the credits are based on peak flow controls and water clarity measures. Given the nature of the units of measure used to calculate the credits, they will only be available to individuals with engineered on-site storm water management devices. Listed below are examples of a Storm Water Management Utility Fee credit calculation:

6.7.9 (1) **Flow Reduction Credit Policy:**

Eligibility for flow reduction credits shall be based on a 24-hour, 10-year storm event. Only one of the following credits will be granted per customer.

- a) A 10% credit will be given if the peak discharge of the developed parcel is less than the peak discharge before the development.
- b) A 20% credit will be given if discharge is equal to or less than 0.40 cubic feet per second (CFS) per acre.
- c) A 30% credit will be given if discharge is equal to or less than 0.30 CFS/acre.
- d) A 40% credit will be given if discharge is equal to or less than 0.15 CFS/acre.

6.7.9 (2) **Water Quality Credit Policy:**

The credit for improving water quality will be capped at 25% and should be given for achieving the following water quality standards:

- a) A 12.5% reduction in the fee for removing between 40% and 79% of the total suspended solids (TSS) from the storm water.
- b) An additional 12.5% reduction in the fee for removing 80% or more of the total suspended Solids (TSS) from the storm water.

6.7.9 (3) **Method of Appeal:**

The Storm Water Utility charge may be appealed as follows:

- a) Within thirty (30) days of payment due date, a written challenge to the Storm Water charge must be filed with the Town Clerk specifying the basis for the challenge and the amount of the Storm Water charge the customer asserts is appropriate. Failure to file a challenge within thirty (30) days of payment due date waives all rights to later challenge of the charge.
- b) The Town Board will determine whether the Storm Water charge is fair and reasonable, or whether a refund is due the customer. The Town Board may act with or without a Public Hearing, and will inform the customer in writing of its decision.
- c) If the Town Board determines that a refund is due the customer, the refund will be applied as a credit toward the customer's Storm Water billing if the refund will not

exceed the customer's next Storm Water billing, or will be refunded at the discretion of the Town Board.

6.7.11 SPECIAL CHARGE AUTHORITY:

In addition to any other method for collection of the charges established pursuant to this ordinance for Storm Water Utility costs, the Town Board finds that these charges may be levied on property as a special charge pursuant to Wisconsin Statutes 66.0627. The charges established hereunder reasonably reflect the benefits conferred on property and may be assessed as special charges. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in the owner being charged principal, interest and penalties pursuant to the authority of Wisconsin Statutes 66.0627.

6.7.12 FINANCE:

The Storm Water Utility finances shall be accounted for in a separate Storm Water Utility Account by the Town. The Town Board shall prepare an annual budget, which is to include all operation and maintenance costs, debt service and other costs related to the operation of the Storm Water Utility. The budget is subject to approval by the Town Board. The costs shall be spread over the rate classifications as determined by the Town Board. Any excess of revenues over expenditures in a year will be retained in the Storm Water Utility Account for subsequent years' needs.

6.7.13 SEVERABILITY:

In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Town Board that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Adopted this 7th, day of November, 2012



Mark E. Luebke, Town Chair

Attest: 

Richard Johnston, Town Administrator/Clerk