

Chapter 23

Title 23

STORMWATER MANAGEMENT AND EROSION CONTROL

Chapters:

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Chapter 23.01

CONTROL OF POST CONSTRUCTION RUNOFF

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23.01.010 Authority. A. This ordinance is adopted by the Village Board under the authority granted by s. 61.354, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 61.35, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in s. 61.354, Wis. Stats., s. 61.35, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

B. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

C. The Village Board hereby designates the Director of Public Works / Village Engineer and the Building Inspector to administer and enforce the provisions of this ordinance.

D. The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:

1. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
2. Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

23.01.020 Findings of fact. A. The Village Board finds 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.
6. Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
7. Undermine floodplain management efforts by increasing the incidence and levels of flooding.

23.01.030 Purpose and intent. A. 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:

1. Further the maintenance of safe and healthful conditions.
2. 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.
3. Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

4. Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.

B. Intent. It is the intent of the Village Board 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 Village Board 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 Village Board, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

23.01.040 Applicability and jurisdiction. A. Applicability.

1. Where not otherwise limited by law, this ordinance applies after final stabilization to a site of land disturbing construction activity meeting any of the criteria in this paragraph, unless the site is otherwise exempt under section 2. A post-development construction site that had one or more acres of land disturbing construction activity.

2. A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.

a. A redevelopment post-construction site with no increase in exposed parking lots or roads.

b. A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.

c. Nonpoint discharges from agricultural facilities and practices.

d. Nonpoint discharges from silviculture activities.

e. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

f. Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

3. Notwithstanding the applicability requirements in paragraph (A), this ordinance applies to post-construction sites of any size that, in the opinion of the Director of Public Works/Village Engineer, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

B. Jurisdiction. This ordinance applies to post construction sites within the boundaries and jurisdiction of the Village of Grafton.

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

23.01.050 Definitions. The following definitions shall apply to this chapter:

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. 61.354, Wis. Stats., that is designated by the Village Board to administer this ordinance.

3. Agricultural facilities and practices has the meaning given in s. 281.16, 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 calendar year of precipitation, excluding snow, which is considered typical.

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 Village of Grafton 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.

9. Combined sewer system means a system for conveying both sanitary sewage and storm water runoff.

10. Connected imperviousness means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious 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. Division of land means the creation from one parcel of five or more parcels or building sites of one and one-half or fewer

acres each in area where such creation occurs at one time or through the successive partition within a 5 year period.

15. 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.

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

17. Exceptional resource waters means waters listed in s. NR 102.11, Wis. Adm. Code.

18. Extraterritorial means the unincorporated area within 3 miles of the corporate limits of the Village of Grafton.

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% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of 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 Director of Public Works/Village Engineer 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 village board of trustees.

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, parking lots and streets are examples of areas that typically are impervious.

24. In-fill area means an undeveloped area of land located within existing development.

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. Karst feature means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

28. 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.

29 "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.

30. Maintenance agreement means a legal document that provides for long-term maintenance of storm water management practices.

31. MEP or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

32. New development means development resulting from the conversion of previously undeveloped land or agricultural land uses.

33 "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.

34. Off-site means located outside the property boundary described in the permit application.

35. On-site means located within the property boundary described in the permit application.

36. Ordinary high-water mark has the meaning given in s. NR 115.03(6), Wis. Adm. Code.

37. Outstanding resource waters means waters listed in s. NR 102.10, Wis. Adm. Code.

38. Percent fines means the percentage of a given sample of soil, which passes through a # 200 sieve.

39. Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

40. Permit means a written authorization made by the Director of Public Works/Village Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

41. Permit administration fee means a sum of money paid to the Director of Public Works/Village Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

42. 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.

43. Pollutant has the meaning given in s. 283.01(13), Wis. Stats.

44. Pollution has the meaning given in s. 281.01(10), Wis. Stats.

45. Post-construction site means a construction site following the completion of land disturbing construction activity and final site stabilization.

46. 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.

47. Preventive action limit has the meaning given in s. NR 140.05(17), Wis. Adm. Code.

48. "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.

49. Redevelopment means areas where development is replacing older development.

50. Responsible party means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.

51. 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.

52. 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 draining to a storm water treatment device or system.
- d. Discharges directly or indirectly to waters of the state.

53. "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.

54. Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

55. Stop work order means an order issued by the Director of Public Works/Village Engineer which requires that all construction activity on the site be stopped.

56. 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.

57. 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.

58. Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

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

60. "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.

61. "TP-40" means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

62. 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.

63. "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.

64. "TSS" means total suspended solids.

65. Type II distribution means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

66. Waters of the state has the meaning given in s. 281.01 (18), Wis. Stats.

23.01.055 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 Department of Public Work / Village Engineer'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.

23.01.060 Technical Standards. A. The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of storm water practices needed to meet the water quality standards of this ordinance:

1. 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 Director of Public Works/Village Engineer.

3. In this ordinance, the following year and location has been selected as average annual rainfall: Milwaukee, 1969 (Mar. 28-Dec. 6).

23.01.070 Performance Standards. A. Responsible party. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.

B. Plan. A written storm water management plan in accordance with 23.01.090 shall be developed and implemented for each post-construction site.

C. 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.

D. Requirements. The plan required under section 23.01.070(B) shall include the following:

1. 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:

a. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.

b. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.

c. For in-fill development under 5 acres that occurs within 10 years after the effective date of this rule (January 1, 2004), by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be

required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.

d. For in-fill development that occurs 10 or more years after the effective date of this rule (January 1, 2004), by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.

e. Notwithstanding sub-section. a. to d., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

f. 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.

2. Peak discharge.

a. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions for the design storm referenced in paragraph c. of this section applicable to the post-construction site. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the NRCS Wisconsin MSE3 precipitation distribution. On a case-by-case basis, the Director of Public Works / Village Engineer may allow the use of TP-40 precipitation depths and the Type II distribution. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

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

b. This subsection of the ordinance does not apply to any of the following:

1. A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the 2-year, 24-hour storm event.

2. 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.

3. A redevelopment post-construction site.

4. An in-fill development area less than 5 acres.

c. The post-construction peak discharge between a 50 year event and a hundred year event shall be the pre-developed 25 year discharge. The post-construction peak discharge between a 10 year event and a 25 year event shall be the pre-developed 5 year event. The post-construction peak discharge between a 2 year event and a 10 year event shall be the pre-developed 2 year event. (Ord. 024, Series 2006, Part 1)

3 Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in sub-sections 3f and 3h through 3j.

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.

d. Pre-development condition shall be the same as in section (2) Peak Discharge.

Note to Permittees: *A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology may be used.*

e. 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 subsection 3-h. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

Note to Permittees: *To achieve the infiltration requirement for the parking lots or roads, maximum extent practicable should not be interpreted to require significant topography changes that create an excessive financial burden. To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.*

f. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:

1. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.

2. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.

Note to Permittees: *Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.*

3. Fueling and vehicle maintenance areas.

4. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.

5. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation

of seasonal high groundwater or the top of bedrock, except this subd. 5.e. does not prohibit infiltration of roof runoff.

6. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

7. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

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

9. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subd. 5.i. does not prohibit infiltration of roof runoff.

Note to Permittees: *The areas listed in sub. e-exclusions are prohibited from infiltrating runoff due to the potential for groundwater contamination.*

g. Separation distances.

1. 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

2. Notwithstanding par. b., applicable requirements for injection wells classified under ch. NR 815 shall be followed.

h. Exemptions. The following are not required to meet the requirements of this paragraph:

1. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.

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

3. Redevelopment post-construction sites.

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

5. Infiltration areas during periods when the soil on the site is frozen.

6. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

i. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.

j. Infiltration systems designed in accordance with this paragraph shall:

1. 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, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. Notwithstanding subd. par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

4. Protective areas.

a. "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 paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.

2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

3. For lakes, 50 feet.
4. For wetlands not subject to par. 5. or 6., 50 feet.

5. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

6. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

7. In subsection 4a,1, 4, 5, and 6, 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.

8. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

9. Notwithstanding pars. 1. to 8., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.

b. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection 3d of this section.

c. The following requirements shall be met:

1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. 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.

Note to Permittees: *It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability*

because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

3. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

Note to Permittees: Other regulations, such as ch. 30, Wis. Stats., and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval process may apply in the protective area.

- d. This paragraph does not apply to:
1. Redevelopment post-construction sites.
 2. In-fill development areas less than 5 acres.
 3. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 4. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
 5. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note to Permittees: A vegetated protective area to filter runoff pollutants from post-construction sites described in subsection d.5 above, is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.

5. Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

Note to Permittees: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

6. Swale treatment for transportation facilities.
- a. Applicability. Except as provided in subsection 6b, transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

1. 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.

Note to Permittees: *It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.*

2 Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Swale 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.

Note to Permittees: *Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks or parking lanes do not comply with the design requirements of this paragraph. However, a limited amount of structural measures such as curb and gutter may be allowed as necessary to account for other concerns such as human safety or resource protection.*

b. Exemptions. The Director of Public Works/Village Engineer may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:

1. An outstanding resource water.
2. An exceptional resource water.
3. Waters listed in s. 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.
4. Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.
5. The transportation facility authority shall contact the Director of Public Works/Village Engineer to determine if additional BMPs beyond a water quality swale are needed under this subsection.

Note to Permittees: *The Department of Natural Resource's regional storm water staff can determine if additional BMPs, beyond a water quality swale, are needed under this paragraph.*

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

1. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity,

and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

2. Emergency overland flow for all 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.

E. Location and regional treatment option

1. The 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.

2. Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.

3. Except as allowed under par. (4), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.

4. Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this ordinance if:

a. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and

b. The BMP is designed to provide runoff treatment from future upland development.

5. Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.

a. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.

b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

Note to Permittees: *This allows the location of BMPs in navigable surface waters where necessary to augment management practices upstream of the navigable surface water to meet the performance standards.*

6. The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.

Note to Permittees: *This section does not supersede any other applicable federal, state or local regulation such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.*

7. The Director of Public Works/Village Engineer may approve off-site management measures provided that all of the following conditions are met:

a. The Director of Public Works/Village Engineer determines that the post-construction runoff is covered by a storm water

management system plan that is approved by the Village of Grafton and that contains management requirements consistent with the purpose and intent of this ordinance.

b. The off-site facility meets all of the following conditions:

1. The facility is in place.
2. 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.
3. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

8. Where a regional treatment option exists such that the Director of Public Works/Village Engineer 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 Director of Public Works/Village Engineer. In determining the fee for post-construction runoff, the Director of Public Works/Village Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

F. Alternate requirements. The Director of Public Works/Village Engineer may establish storm water management requirements more stringent than those set forth in this section if the Director of Public Works/Village Engineer determines that an added level of protection is needed to protect sensitive resources.

21.03.080 Permitting requirements, procedures and fees.

A. Permit required. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Director of Public Works/Village Engineer prior to commencing the proposed activity.

B. Permit application and fees. Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Director of Public Works/Village Engineer a permit application made on a form provided by the Director of Public Works/Village Engineer for that purpose.

1. Unless otherwise excepted 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.

2. The storm water management plan shall be prepared to meet the requirements of Section 23.01.070 and 23.01.090, the maintenance agreement shall be prepared to meet the requirements of Section 23.01.100, the financial guarantee shall meet the requirements of Section 23.01.110, and fees shall be those established by the Village Board as set forth in Section 23.01.120.

C. Review and approval of permit application. The Director of Public Works/Village Engineer 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:

1. Within 10 business days of the receipt of a complete permit application, including all items as required by Section 23.01.080(B), the Director of Public Works/Village Engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

2. If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Director of Public Works/Village Engineer shall issue the permit.

3. If the storm water permit application, plan or maintenance agreement is disapproved, the Director of Public Works/Village Engineer shall detail in writing the reasons for disapproval.

4. The Director of Public Works/Village Engineer may request additional information from the applicant. If additional information is submitted, the Director of Public Works/Village Engineer shall have 10 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

5. Failure by the Director of Public Works/Village Engineer to inform the permit applicant of a decision within 15 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.

D 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 Director of Public Works/Village Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Director of Public Works/Village Engineer to suspend or revoke this permit may be appealed in accordance with Section 23.01.140.

1. 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.

2. 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.

3. The responsible party shall notify the Director of Public Works/Village Engineer at least 10 business days before commencing any work in conjunction with the storm water management plan, and within 5 business days upon completion of the storm water management practices. If required as a special condition under Section 23.01.080(E), the responsible party shall make additional notification according to a schedule set forth by the Director of Public Works/Village Engineer so that practice installations can be inspected during construction.

4. Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Director of Public Works/Village Engineer or

its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Director of Public Works/Village Engineer, or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

5. The responsible party shall notify the Director of Public Works/Village Engineer of any significant modifications it intends to make to an approved storm water management plan. The Director of Public Works/Village Engineer 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.

6. 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 Village Board, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

7. The responsible party authorizes the Director of Public Works/Village Engineer 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 Section 23.01.110.

8. If so directed by the Director of Public Works/Village Engineer 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.

9. The responsible party shall permit property access to the Director of Public Works/Village Engineer, or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

10. Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Director of Public Works/Village Engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

11. The responsible party is subject to the enforcement actions and penalties detailed in Section 23.01.130, if the responsible party fails to comply with the terms of this permit.

E. Permit conditions. Permits issued under this subsection may include conditions established by the Director of Public Works/Village Engineer in addition to the requirements needed to meet the performance standards in S.07 or a financial guarantee as provided for in Section 23.01.110.

F. Permit duration. Permits issued under this section shall be valid from the date of issuance through the date the Director of Public Works/Village Engineer notifies the responsible party that all storm water management practices have passed the final inspection required under subsection. (D) (4).

23.01.090 Storm water management plan.

A. Plan requirements. The storm water management plan required under S.08 (2) shall contain at a minimum the following information:

1. 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.
2. 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.
3. Pre-development site conditions, including:
 - a. One or more site maps at a scale of not less than 1 inch equals 40 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 2 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.
 - b. 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).
4. Post-development site conditions, including:
 - a. 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.
 - b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 - c. One or more site maps at a scale of not less than 1 inch equals 40 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 2 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.

d. 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).

e. 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.

5. A description and installation schedule for the storm water management practices needed to meet the performance standards in Section 23.01.070.

6. A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.

7. Cost estimates for the construction, operation, and maintenance of each storm water management practice.

8. Other information requested in writing by the Director of Public Works/Village Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

9. 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.

B Alternate requirements. The Director of Public Works/Village Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under Section 23.01.070(3)(e).

23.01.100 Maintenance agreement. A. Maintenance agreement required.. The maintenance agreement required under Section 23.01.080 (B) for storm water management practices shall be an agreement between the Director of Public Works/Village Engineer 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.

B. Agreement provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Section 23.01.090(A)(6):

1. Identification of the storm water facilities and designation of the drainage area served by the facilities.
2. A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under Section 23.01.080 (B).
3. 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 Section 23.01.080 (B).
4. 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. (2).
5. Authorization for the Director of Public Works/Village Engineer 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.
6. A requirement on the Director of Public Works/Village Engineer] 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.
7. Agreement that the party designated under par. (B) (3), as responsible for long term maintenance of the storm water management practices, shall be notified by the Director of Public Works/Village Engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Director of Public Works/Village Engineer.
8. Authorization of the Director of Public Works/Village Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under par. (B) (3) does not make the required corrections in the specified time period. The Director of Public Works/Village Engineer 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.

23.01.110 Financial guarantee. A. Establishment of the guarantee. The Director of Public Works/Village Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Director of Public Works/Village Engineer. The financial guarantee shall be in an amount determined by the Director of Public Works/Village Engineer 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 Director of Public Works/Village Engineer 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 Director of Public Works/Village Engineer that the requirements of this ordinance have not been met.

B. Conditions for release. Conditions for the release of the financial guarantee are as follows:

1. The Director of Public Works/Village Engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the Director of Public Works/Village Engineer to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Director of Public Works/Village Engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

2. The Director of Public Works/Village Engineer 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 Director of Public Works/Village Engineer, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

23.01.120 Fee schedule. The fees referred to in other sections of this ordinance shall be established by the Village Board and may from time to time be modified by resolution. A schedule of the fees established by the Village Board shall be available for review at the Department of Public Works, 1300 Hickory Street, Grafton, WI.

23.01.130 Enforcement. A. The Village Board hereby designates the Director of Public Works/Village Engineer to administer and enforce the provisions of this chapter.

B. 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.

C The Director of Public Works/Village Engineer 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.

D. Upon receipt of written notification from the Director of Public Works/Village Engineer under subsection (B), 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 Director of Public Works/Village Engineer in the notice.

E. 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 Director of Public Works/Village Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Director of Public Works/Village Engineer plus interest and legal costs shall be billed to the responsible party.

F. The Director of Public Works/Village Engineer 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 Village Attorney to obtain a cease and desist order in any court with jurisdiction.

G. The Director of Public Works/Village Engineer may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

H. Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Director of Public Works/Village Engineer or by a court with jurisdiction.

I. The Director of Public Works/Village Engineer is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Village Attorney for the commencement of further legal proceedings in any court with jurisdiction.

J. 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 \$50 dollars or more than \$500 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

K. 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.

Note to Permittees: *Injunctive orders are authorized pursuant to s. 59.69(11), 61.35, or 62.23(8), Wis. Stats., for counties, villages and towns with village powers, and cities respectively.*

L. When the Director of Public Works/Village Engineer 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 Director of Public Works/Village Engineer or a party designated by the Director of Public Works/Village Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Director of Public Works/Village Engineer 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 Section 23.01.110 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.

23.01.140 Appeals. A. Board of Appeals. The board of appeals, created pursuant to section [number] of the Village of Grafton ordinances pursuant to s. 61.354(4)(b), Wis. Stats., shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director of Public Works/Village Engineer 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.

B. 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 Village of Grafton affected by any decision of the Director of Public Works/Village Engineer.

23.01.150 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.

23.01.160 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 Village Board of the Village of Grafton on the 19th day of February, 2016.

(Chapter 23.01 / Ord. 029, Series 2003; Ord. 008, Series 1998, Part 3).

Chapter 23.04

CONTROL OF CONSTRUCTION SITE EROSION RESULTING FROM
LAND DISTURBING CONSTRUCTION ACTIVITIES

Sections:

- 23.04.010 Authority.
- 23.04.020 Findings of Fact.
- 23.04.030 Purpose.
- 23.04.040 Applicability and Jurisdiction.
- 23.04.050 Definitions.
- 23.04.055 Applicability of Maximum Extent Practicable
- 23.04.060 Technical Standards.
- 23.04.070 Performance Standards for Construction Sites of One
Acre or More.
- 23.04.080 Permitting Requirements, Procedures and Fees.
- 23.04.090 Erosion and Sediment Control Plan, Statement and
Amendments.
- 23.04.100 Building Construction Activities.
- 23.04.110 Fee Schedule.
- 23.04.120 Inspection.
- 23.04.130 Enforcement.
- 23.04.140 Appeals
- 23.04.150 Severability
- 23.04.160 Effective Date

23.04.010 Authority. A. This ordinance is adopted under the authority granted by s. 61.354, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 61.35, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 61.354 Wis. Stats., s. 61.35, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

B. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

C. The Village Board hereby designates the Director of Public Works/Village Engineer to administer and enforce the provisions of this ordinance.

D. 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:

1. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
2. Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

23.04.020 Findings of Fact. The Village Board finds that runoff from land disturbing construction activity carries a significant

amount of sediment and other pollutants to the waters of the state in the Village of Grafton.

23.04.030 Purpose. It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; 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 Village of Grafton.

23.04.040 Applicability and Jurisdiction. A. Applicability. This ordinance applies to construction of sanitary sewer and water mains and erosion control for Planned Unit Developments, Subdivisions, and other land disturbing construction activities except as provided under sub. (1).

1. This ordinance does not apply to the following:
 - a. Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce under s. COMM 321.125 or COMM 50.115, Wis. Adm. Code.
 - b. 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.

Note to Permittees: *Transportation facility projects directed and supervised by Wisconsin Department of Transportation are not subject to this ordinance. Notwithstanding this ordinance, a municipality is required to comply with the construction site transportation facility performance standards in subch. IV of NR 151, Wis. Adm. Code, for its own transportation-related projects.*

- c. 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.
 - d. Nonpoint discharges from agricultural facilities and practices.
 - e. Nonpoint discharges from silviculture activities.
 - f. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

2. Notwithstanding the applicability requirements in paragraph (1), this ordinance applies to construction sites of any size that, in the opinion of the Director of Public Works/Village Engineer 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, that increases water pollution by

scouring or the transportation of particulate matter or that endangers property or public safety.

B. Jurisdiction. This ordinance applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the Village of Grafton.

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

23.04.050 Definitions

1. Administering authority means a governmental employee, or a regional planning commission empowered under s. 61.354, Wis. Stats., that is designated by the Village Board to administer this ordinance.

2. Agricultural facilities and practices has the meaning in s. 281.16(1), Wis. Stats.

3. Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical.

4. 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.

5. Business day means a day that the office of the Village of Grafton is routinely and customarily open for business.

6. Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

7. 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.

8. "Design Storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

9. Division of land means the creation from one parcel of five or more parcels or building sites of one and one-half or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5 year period.

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

11. 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.

12. Extraterritorial means the unincorporated area within 3 miles of the corporate limits of a first class village.

13. 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.

14. Governing body means village board of trustees.

15. 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.

16. "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.

17. Maximum extent practicable or "MEP" means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

18. Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

19. Permit means a written authorization made by the Village Board to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

20. Pollutant has the meaning given in s. 283.01 (13), Wis. Stats.

21. Pollution has the meaning given in s. 281.01 (10), Wis. Stats.

22. Responsible party means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

23. 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.

24. Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

25. 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:

1. Is designed or used for collecting water or conveying runoff.
2. Is not part of a combined sewer system.
3. Is not draining to a storm water treatment device or system.

4. Discharges directly or indirectly to waters of the state.

26 "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.

27. 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.

28. Stop work order means an order issued by the Village Board, which requires that all construction activity on the site be stopped.

29. Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

30 "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.

31. Waters of the state has the meaning given in s. 281.01 (18), Wis. Stats.

23.04.055 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 Village of Grafton'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.

23.04.060 Technical Standards. A. Design criteria, standards and specifications. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

1. Applicable design criteria, standards and specifications identified in the *Wisconsin Construction Site Best Management Practice Handbook*, WDNR Pub. WR-222 November 1993 Revision.

2. Other 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.

3. For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II

distribution, with consideration given to the geographic location of the site and the period of disturbance.

4. 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.

Note to Permittees: *The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion.*

B. Other standards. Other technical standards not identified or developed in sub. (A), may be used provided that the methods have been approved by the Director of Public Works/Village Engineer.

23.04.070 Performance Standards for Construction Sites of One Acre or More. A. Responsible party. The responsible party shall implement an erosion and sediment control plan, developed in accordance with Section 23.04.090, that incorporates the requirements of this section.

B. Plan. A written plan shall be developed in accordance with Section 23.04.090 and implemented for each construction site.

C. Erosion and other pollutant control requirements. The plan required under sub (B) shall include the following:

1. BMPs that, by design, achieve to the maximum extent practicable, discharge no more than 5 tons per acre per year of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

2. Notwithstanding par. (1), if BMPs cannot be designed and implemented to meet the sediment performance standard, on an average annual basis, the plan shall include a written and site-specific explanation as to why the sediment performance standard is not attainable and the sediment load shall be reduced to the maximum extent practicable.

3. Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.

b. Prevent the discharge of sediment as part of site de-watering.

c. Protect the separate storm drain inlet structure from receiving sediment.

d. The discharge of sediment from disturbed areas into adjacent waters of the state.

e. The discharge of sediment from drainage ways that flow off the site.

f. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

g. The discharge of sediment from erosive flows at outlets and in downstream channels.

h. 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.

i. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

4. The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. 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 paragraph.

D. 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.

E. Location. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

F. IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:

1. 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. 23.04.08* (2).

2. Erosion and sediment control practices shall be maintained until final stabilization.

3. Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

4. Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

5. BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

G. Alternate requirements. The Director of Public Works/Village Engineer may establish storm water management requirements more stringent than those set forth in this section if the Director of Public Works/Village Engineer determines that an added level of protection is needed for sensitive resources.

23.04.080 Permitting Requirements, Procedures and Fees. A.

Permit required. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of a developers agreement, erosion and sediment control plan for the site and a permit from the Director of Public Works/Village Engineer. (Ord. 016, Series 2004, Part 1)

B. Permit application and fees. At least one responsible party desiring to 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 Section 23.04.090, an approved developers agreement, and shall pay an application fee to the Village of Grafton. By submitting an application, the applicant is authorizing the Director of Public Works/Village Engineer to enter the site to obtain information required for the review of the erosion and sediment control plan.

Subdivision Development	\$300.00 plus \$5/lot
Planned unit Development	\$300.00 plus \$5/acre
Other	\$ 30.00

(Ord. 016, Series 2004, Part 1)

C. Review and approval of permit application. The Director of Public Works/Village Engineer shall review any permit application that is submitted with an erosion and sediment control plan, the required fee, and after the developers agreement is approved by the Village Board. The following approval procedure shall be used:

1. Within 10 business days of the receipt of a complete permit application, as required by sub. (B), the Director of Public Works/Village Engineer shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.

2. If the permit application and plan are approved, the Director of Public Works/Village Engineer shall issue the permit.

3. If the permit application or plan is disapproved, the Director of Public Works/Village Engineer shall state in writing the reasons for disapproval.

4. The Director of Public Works/Village Engineer may request additional information from the applicant. If additional information is submitted, the Director of Public Works/Village Engineer shall have 10 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

5. Failure by the Director of Public Works/Village Engineer to inform the permit applicant of a decision within 15 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. (Ord. 016, Series 2004, Part 1)

D. Surety Bond. As a condition of approval and issuance of the permit, the Director of Public Works/Village Engineer may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

E. Permit requirements. All permits shall require the responsible party to:

1. Notify the Director of Public Works/Village Engineer within 48 hours of commencing any land disturbing construction activity.
2. Notify the Director of Public Works/Village Engineer of completion of any BMPs within 14 days after their installation.
3. Obtain permission in writing from the Director of Public Works/Village Engineer prior to any modification pursuant to 23.01.090 (3) of the erosion and sediment control plan.
4. Install all BMPs as identified in the approved erosion and sediment control plan.
5. Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
6. Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
7. 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 document the findings of the inspections in a site erosion control log with 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.
8. Allow the Director of Public Works/Village Engineer 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 control plan. Keep a copy of the erosion and sediment control plan at the construction site.

F. Permit conditions. Permits issued under this section may include conditions established by the Director of Public Works/Village Engineer in addition to the requirements set forth in sub. (E), where needed to assure compliance with the performance standards in Section 23.04.070.

G. 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 Director of Public Works/Village Engineer may extend the period one or more times for up to an additional 180 days. The Director of Public Works/Village Engineer may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

H. 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.

23.04.090 Erosion and sediment control plan, statement, and amendments.

A. Erosion and sediment control plan.

1. An erosion and sediment control plan shall be prepared and submitted to the Director of Public Works/Village Engineer.

2. The erosion and sediment control plan shall be designed to meet the performance standards in Section 23.04.070 and other requirements of this ordinance.

3. 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:

a. The 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.

b. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

c. A sequence of construction of the development 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.

d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.

f. Calculations to show the expected sediment load in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.

g. Existing data describing the surface soil as well as subsoils.

h. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.

i. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.

4. 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.

a. 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.

b. Boundaries of the construction site.

c. Drainage patterns and approximate slopes anticipated after major grading activities.

d. Areas of soil disturbance.

e. Location of major structural and non-structural controls identified in the plan.

f. Location of areas where stabilization practices will be employed.

g. Areas which will be vegetated following construction.

h. Area extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.

i. Locations of all surface waters and wetlands within one mile of the construction site.

j. An alphanumeric or equivalent grid overlying the entire construction site map.

k. Areas(s) used for infiltration of post-construction storm water runoff.

5. Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

b. 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 Director of Public Works/Village Engineer structural measures shall be installed on upland soils.

c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.

d. Trapping of sediment in channelized flow.

e. Staging construction to limit bare areas subject to erosion.

f. Protection of downslope drainage inlets where they occur.

g. Minimization of tracking at all sites.

h. Clean up of off-site sediment deposits.

i. Proper disposal of building and waste materials at all sites.

j. Stabilization of drainage ways.

k. Control of soil erosion from dirt stockpiles.

l. Installation of permanent stabilization practices as soon as possible after final grading.

m. Minimization of dust to the maximum extent practicable.

6 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.

B Erosion and sediment control plan statement.. For each construction site identified under Section 23.04.040(A)(2), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Director of Public Works/Village Engineer. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

C. Amendments. The applicant shall amend the plan if any of the following occur:

1. 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 plan.

2. The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

3. The Director of Public Works/Village Engineer notifies the applicant of changes needed in the plan.

23.04.100 Building construction activities. A. Erosion Control. Construction sites involving building construction where a building permit has been issued under Chapter 16 shall comply with the following:

1. One and Two Family Construction. On a site where a building permit has been issued under Chapter 16 for the construction of a one or two family residence, compliance shall be as required in Comm 321.125 Erosion Control Procedures, as adopted by reference; or

2. Building Construction Under Comm 361 and 362. On a site where a building permit has been issued under Chapter 16 for the construction of a building or other structure, other than indicated in sub (1), and which is governed by and constructed under Comm 361 and 362, compliance shall be as required in Comm 61.115 Notice of Intent, as adopted by reference.

Note to Permit Holder: Any building construction greater than 1 acre is not eligible to be regulated Comm 321.125 or 361 and 362. Construction sites greater than 1 acre are subject to the requirements of 23.04.070.

23.04.110 Fee Schedule. The fees referred to in other sections of this ordinance shall be established by the Village Board and may from time to time be modified by resolution. A schedule of the fees established by the Village Board shall be available for review in the Department of Public Works.

23.04.120 Inspection. If land disturbing construction activities are being carried out without a permit required by this ordinance, the Director of Public Works/Village Engineer may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

Note to Permit Holder: *The Director of Public Works/Village Engineer will inspect any construction site that holds a permit under this chapter at least once a month during the period starting March 1 and ending October 31 and at least 2 times during the period starting November 1 and ending February 28 to ensure compliance with the approved sediment and erosion control plan.*

23.04.130 Enforcement. A. The Director of Public Works/Village Engineer may post a stop-work order if any of the following occurs:

1. Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.

2. The erosion and sediment control plan is not being implemented in a good faith manner.

3. The conditions of the permit are not being met.

B. 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 Director of Public Works/Village Engineer may revoke the permit.

C. If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Director of Public Works/Village Engineer or if a responsible party violates a stop-work order posted under sub. (A), the Director of Public Works/Village Engineer may request the village attorney to obtain a cease and desist order in any court with jurisdiction.

D. The Director of Public Works/Village Engineer may retract the stop-work order issued under sub. (A) or the permit revocation under sub. (B).

E. After posting a stop-work order under sub. (A), the Director of Public Works/Village Engineer may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Director of Public Works/Village Engineer 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 Director of Public Works/Village Engineer, plus interest at the rate authorized by Village Board 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 subch. VII of ch. 66, Wis. Stats.

F. Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$50 nor more than \$500 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

G. 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.

23.04.140 Appeals. A. Board of Appeals. The Board of Appeals created pursuant to section 19.08.0201 of the village's ordinance pursuant to 61.354(4)(b), Wis. Stats.:

1. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director of Public Works/Village Engineer in administering this ordinance except for cease and desist orders obtained under Section 23.04.130(C).

2. Upon appeal, may authorize 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

3. Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

B. 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 Village of Grafton affected by any decision of the Director of Public Works/Village Engineer. (Ord. 030, Series 2003; Ord. A-001-92 Part 1 (part), 1992

23.04.150 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.

23.04.160 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 Village Board of the Village of Grafton on the 19th day of February, 2016.