

## Chapter 297

### STORMWATER MANAGEMENT

#### GENERAL REFERENCES

Construction site erosion control -- See Ch. 73.  
Driveways – See Ch. 97.  
Nonmetallic mining – See Ch. 182.  
Natural and archaeological resource preservation – See Ch. 194.  
Stormwater utility – See Ch. 301.  
Subdivision of land – See Ch. 308.  
Zoning – See Ch. 375.

#### § 297-1 Authority.

- A. This ordinance is adopted by the Town of Scott pursuant to its police powers and under the authority granted by Wis. Stats. §§ 281.33 and 60.627, Wis. Stats. This chapter supersedes all conflicting and contradictory stormwater management regulations previously enacted under Wis. Stats. §§ 60.62 or 60.627. Except as specifically provided for in Wis. Stats. § 281.33, Wis. Stats. § 60.62 applies to this chapter and to any amendments to this chapter.
- B. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Town Board.
- C. The Town Board hereby designates the Zoning Administrator or designee to have the administrative authority to administer and enforce the provisions of this chapter.
- 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 §§ 281.16 and 283.33, Wis. Stats.
  - (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under § NR 151.004, Wis. Adm. Code.

#### § 297-2 Findings of Fact.

The Town Board finds that uncontrolled stormwater runoff from land development activity has a significant detrimental impact upon water resources and the health, safety, and general welfare of the Town. Specifically, uncontrolled runoff can:

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

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

**§ 297-3 Purpose and Intent.**

- A. **PURPOSE.** The purpose of this chapter is to set forth stormwater requirements and criteria that will prevent and control water pollution and diminish the threats to public health, safety, welfare, and aquatic life due to runoff of stormwater from development or redevelopment. 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.
- B. **INTENT.** It is the general intent of the Town that this ordinance achieve its purpose through:
  - (1) Regulating long-term, post-construction stormwater discharges from land development activities;
  - (2) Controlling the quantity, peak flow rates, and quality of stormwater discharges from land development activities;
  - (3) Providing services to maintain and enhance the quality of life within the community.

To this end, the Town will manage stormwater to protect, maintain, and enhance the natural environment, diversity of fish and wildlife, human life, property, and recreational use of waterways within the Town; and

- (4) Achieving the stormwater performance standards set forth in this chapter through the preparation and implementation of comprehensive stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale where possible;
- (5) Prescribing regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the Town Board, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

#### **§ 297-4 Definitions.**

- A. **ADEQUATE SOD, or SELF-SUSTAINING VEGATATIVE COVER.** Maintenance of sufficient vegetation types and densities such that the physical integrity of the stream bank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.
- B. **ADMINISTRATIVE AUTHORITY.** The governmental employee designated by the Town to administer this ordinance. The Zoning Administrator has been designated to have the authority to administer this ordinance pursuant to § 297-1C.
- C. **AGRICULTURAL ACTIVITY AREA.** The part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling, and similar practices. The agricultural activity does not include agricultural production area.
- D. **AGRICULTURAL PRODUCTION AREA.** The part of the farm where there is concentrated production activity and impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.
- E. **APPLICANT.** Any landowner, land user(s), agent, or contractor responsible for submitting and carrying out the requirements of this ordinance. "Applicant" shall also include any subsequent landowner to whom this ordinance applies.
- F. **AVERAGE ANNUAL RAINFALL.** Is a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay Wisconsin between March 29 and November 25, 1969.

- G. **BEST MANAGEMENT PRACTICE.** Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in stormwater runoff, and to control and reduce the volume and rate of stormwater discharge to waters of the state.
- H. **BUSINESS DAY.** A day that offices of the Town are routinely and customarily open for business.
- I. **CEASE AND DESIST ORDER.** A Town order to halt land-developing activity that is being conducted without the required permit.
- J. **CLEAR WATER.** Water from roof drains, surface drains, foundation water drains, cistern overflows, refrigerator cooling waters, and water from air conditioning equipment.
- K. **COMMON PLAN OF DEVELOPMENT OR SALE.** All lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property or a single lot where multiple separate and distinct land developing activities may take place at different times and on different schedules.
- L. **CONNECTED IMPERVIOUSNESS.** An impervious surface that is directly connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.
- M. **CONSTRUCTION SITE.** An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale.
- N. **DESIGN STORM.** A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The Atlas 14 MSE4 24-hour design storm for Scott are: 1-year, 2.1 inches; 2-year, 2.4 inches; 5-year, 3.0 inches; 10-year, 3.5 inches; 25-year, 4.3 inches; 100-year, 5.6 inches.
- O. **DEVELOPMENT.** Residential, commercial, industrial, or institutional land uses and associated roads.
- P. **DIRECT CONDUITS OF GROUNDWATER.** Wells, sinkholes, swallets, fractured bedrock at the surface, sand or gravel surficial deposits, mine shafts, nonmetallic mines, tile inlets discharging to groundwater, quarries or depressional groundwater recharge areas over shallow fractured bedrock.
- Q. **DISCHARGE VOLUME.** The quantity of runoff discharged from the land surface as the result of a rainfall event.
- R. **DIVISION OF LAND.** The creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.
- S. **EFFECTIVE INFILTRATION AREA** The area of the infiltration system that is used to

infiltrate runoff and does not include the area used for site access, berms or pre-treatment.

- T. EROSION. The process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- U. EXCEPTIONAL RESOURCE WATERS. Waters listed in s. NR 102.11, Wis. Adm. Code.
- V. EXISTING DEVELOPMENT. Development in existence on October 1, 2004 or development for which a storm water permit in accordance with subch. III of CH. NR 216, Wis. Adm. Code was received on or before October 1, 2004.
- W. EXTRATERRITORIAL. The unincorporated area within 3 miles of the corporate limits of a first, second, or third class city or within 1.5 miles of a fourth class city or village.
- X. 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 Town for the site.
- Y. FINAL STABILIZATION. All land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
- Z. FINANCIAL GUARANTEE. A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Town by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- AA. FUTURE PROPOSED LAND USE CONDITIONS. Any proposed land alterations or disturbances, including, but not limited to, removal of vegetative cover, excavating, filling/grading, construction of buildings, roads, parking lots, paved storage areas, and similar facilities. (*See also "Post Development Land Use Condition."*)
- BB. GOVERNING BODY. Town board of supervisors, county board of supervisors, city council, village board of trustees or village council.
- CC. GROSS AGGREGATE AREA The total area, in acres, of all land located within the property boundary containing the land development activity.
- DD. GROUNDWATER. Any of the waters of the state, as defined in s.281.01 (18), Wis. Stats. occurring in a saturated subsurface geological formation of rock or soil.
- EE. HIGH GROUNDWATER LEVEL or SUBSURFACE SATURATION. The higher of either the elevation to which the soil is saturated as observed as a free water surface in an unlined hole, or the elevation to which the soil has been seasonally or periodically saturated as indicated by soil color patterns throughout the soil profile. As defined in Technical Standard 1002, Site Evaluation for Stormwater Infiltration.
- FF. HIGHWAY. The meaning given in s. 340.01 (22), Wis. Stats.

- GG. HIGHWAY RECONDITIONING. The meaning given in s. 84.013 (1)(b), Wis. Stats.
- HH. HIGHWAY RECONSTRUCTION. The meaning given in s. 84.013(1)(c), Wis. Stats.
- II. HIGHWAY RESURFACING. The meaning given in s. 84.013(1)(d), Wis. Stats.
- JJ. IMPERVIOUS SURFACE. An area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of surfaces that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.
- KK. IMPERVIOUS SURFACE DISTURBANCE. Any land disturbing construction activity on which any new impervious surfaces are created or existing impervious surfaces are redeveloped.
- LL. IN-FILL. An undeveloped area of land or new development area located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur. “In-fill” does not include any undeveloped area that was part of a larger new development for which a storm water permit in accordance with subch. III of ch. NR 216, Wis. Adm. Code, was required to be submitted after October 1, 2004 to the Wisconsin Department of Natural Resources or Wisconsin Department of Safety and Professional Services (formerly Department of Commerce).
- MM. INFILTRATION. The process by which rain or surface runoff penetrates into the underlying soil.
- NN. INFILTRATION SYSTEM. A device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- OO. KARST FEATURE. An area or superficial 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 swales.
- PP. LAND DISTURBING CONSTRUCTION ACTIVITY or DISTURBANCE. Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of pollutants into the municipal separate storm sewer or waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.
- QQ. MAINTENANCE AGREEMENT. A legal document that is filed with the County Register of Deeds as a property deed restriction and which provides for long-term maintenance of stormwater management practices and notice of consequences for failure

of maintenance.

- RR. “MEP” or MAXIMUM EXTENT PRACTICABLE. The highest level of performance that is achievable but is not equivalent to a performance standard identified within this ordinance. Maximum extent practicable applies when the permit applicant demonstrates to the Town of Scott’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the permit applicant shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.
- SS. MINOR RECONSTRUCTION OF A HIGHWAY. Reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening, and that does not include replacement of a vegetated drainage system with a non-vegetated drainage system except where necessary to convey runoff under a highway or private road or driveway.
- TT. NATURAL WETLANDS. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include existing, mitigation, and restored wetlands.
- UU. NAVIGATABLE WATERS and NAVIGATABLE WATERWAY. The meaning given in s. 30.01(4m), Wis. Stats.
- VV. NEW DEVELOPMENT. The portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- WW. NON-STORMWATER DISCHARGE. A discharge to the storm sewer system created by some process other than the runoff from precipitation.
- XX. OFF-SITE. Lands located outside the property boundary described in the permit application for land development activity.
- YY. ON-SITE. Lands located within the property boundary described in the permit application for land development activity.
- ZZ. ORDINARY HIGH-WATER MARK. The meaning given in s. NR 115.03(6), Wis. Adm. Code.
- AAA. OUTSTANDING RESOURCE WATERS. Water’s listed in s. NR 102.10, Wis. Adm. Code.
- BBB. PERCENT FINES. The percentage of a given sample of soil, which passes through a # 200

sieve.

**Note to Users:** Percent fines can be determined using the “American Society for Testing and Materials”, volume 04.02, “Test Method C117-95 Standard Test Method for Materials Finer than 75- $\mu$ m (No. 200) Sieve in Material Aggregates by Washing”. Copies can be obtained by contacting the American society for testing and materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or on line at: [“http://www.astm.org/”](http://www.astm.org/).

- CCC. PERFORMANCE STANDARD. A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- DDD. PEAK FLOW DISCHARGE RATE. The maximum rate at which a unit volume of stormwater is discharged.
- EEE. PERMIT. A written authorization made by the Town to the applicant to conduct land development activities.
- FFF. PERMIT ADMINISTRATION FEE. A sum of money paid to the Town by the applicant for the purpose of recouping the expenses incurred by the Town in administering the permit.
- GGG. PERVIOUS SURFACE. A surface that allows infiltration of precipitation or surface flow. Lawns, fields and woodlands are examples of pervious surfaces.
- HHH. POLLUTANT. Meaning given in s. 283.01(13), Wis. Stats.
- III. POLLUTION. Meaning given in s. 281.01(10), Wis. Stats.
- JJJ. POST-CONSTRUCTION STORMWATER DISCHARGE. Any stormwater discharged from a site following the completion of land development activity and final site stabilization.
- KKK. POST-DEVELOPMENT. The extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization
- LLL. PRE-DEVELOPMENT LAND USE CONDITION. The extent and distribution of land cover types present before the initiation of land development activity, assuming that all land uses prior to land development activity are managed in an environmentally sound manner.
- MMM. PRE-TREATMENT. The treatment of stormwater prior to its discharge to wetlands, infiltration practices or the primary stormwater treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary stormwater practice.
- NNN. PREVENTIVE ACTION LIMIT. The meaning given in s. NR 140.05(17), Wis. Adm. Code.
- OOO. PROTECTIVE AREA. An area of land that commences at the top of the channel of lakes, streams or 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.



- PPP. PUBLIC DRAINAGE SYSTEM. All facilities owned and operated by the Town, Brown County, the Wisconsin Department of Transportation, or adjoining municipality, for the purpose of collecting, conveying, storing, treating, and properly disposing of stormwater runoff.
- QQQ. REDEVELOPMENT. That portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development condition is classified as redevelopment. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate
- RRR. RESIDENTIAL DEVELOPMENT. Land development activity which is created to house people, including the residential dwellings as well as all affected portions of the development, including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, condominiums, and apartments.
- SSS. RESPONSIBLE PARTY. Any person or entity holding fee title to the property or other person or entity contracted or obligated by agreement to implement and maintain post-construction stormwater BMPs.
- TTT. ROUTINE MAINTENANCE. That portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower ½ of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower ½ of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- UUU. RUNOFF. Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- VVV. SEDIMENT. Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- WWW. SEPARATE STORM SEWER. A conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
- (a) Is designed or used for collecting water or conveying runoff.
  - (b) Is not part of a combined sewer system.
  - (c) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
  - (d) Discharges directly or indirectly to waters of the state.
- XXX. SILVICULTURE ACTIVITIES. Activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control.

Clearing and grubbing of an area of a construction site is not a silviculture activity.

- YYY. SITE. The entire portion included in the legal description of the land on which the land development activity is proposed to take place.
- ZZZ. SITE RESTRICTION. Any physical characteristic that limits the use of a stormwater best management practice.
- AAAA. SLAMM. A software program known as the Source Loading and Management Model, designed to provide information on the sources of problem pollutants and the effectiveness of stormwater management practices that can control the problem pollutants at their sources and at outfalls.
- BBBB. STOP WORK ORDER. An order issued by the Town that requires that all construction activity on the site be stopped immediately.
- CCCC. STORMWATER CONVEYANCE SYSTEM. Any method employed to carry stormwater runoff from a development to waters of the state. Examples of methods include swales, channels, and storm sewers.
- DDDD. STORMWATER MANAGEMENT PLAN. A document that identifies all actions that will be taken to reduce stormwater quantity, sediment and pollutant loads from the post-development land use condition to levels meeting the requirements of this chapter.
- EEEE. STORMWATER RUNOFF. That portion of precipitation that does not soak into the soil and flows off the surface of the land and into the natural or artificial stormwater conveyance network.
- FFFF. STORMWATER MANAGEMENT MEASURE. Structural or non-structural practices that are designed to reduce stormwater runoff, sediment and pollutant loads, discharge volumes, and/or peak flow discharge rates.
- GGGG. TARGETED PERFORMANCE STANDARD. A performance standard that will apply in a specific area, where additional practices beyond those contained in this ordinance, are necessary to meet water quality standards. A total maximum daily load is an example of a targeted performance standard.
- HHHH. TECHNICAL STANDARD. A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- IIII. TOP OF THE CHANNEL. An edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- JJJJ. TOTAL MAXIMUM DAILY LOAD or "TMDL". 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.

KKKK. TRANSPORTATION FACILITY. A public street, a public road, a public highway, a railroad, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under 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 Wisconsin Department of Natural Resources pursuant to s. 281.33, Wis. Stats.

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

MMMM. TR-55." The United States Department of Agriculture Natural Resources Conservation Service, Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

NNNN. WATERS OF THE STATE. Any channel, ditch, stream, lake, or other body of water determined to be under State of Wisconsin authority as defined in Wis.Stats. § 281.01(20).

OOOO. WPDES. The Wisconsin Pollutant Discharge Elimination System.

PPPP. WPDES STORMWATER PERMIT. A permit issued by the Wisconsin Department of Natural Resources under Wis. Stats. § 283.33 that authorizes the point source discharge of stormwater to waters of the state and is regulated by Wis. Admin. Code. Ch. NR 216.

## **§ 297-5. Applicability and Jurisdiction.**

### **A. APPLICABILITY.**

- (1) Where not otherwise limited by law, this ordinance applies to all post-construction sites, unless otherwise exempt under chapter § 297-5 A (2).
- (2) A post-construction site that meets any of the following criteria is exempt from the requirements of this ordinance.
  - (a) 1- and 2- family residential dwellings that are not part of a larger common plan of development or sale and that results in less than 1 acres of disturbance.
  - (b) A post-construction site with less than ten percent connected imperviousness, based on area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include the exemption from the protective area standard of this ordinance.
  - (c) Non-point dischargers from agricultural facilities and practices.
  - (d) Non-point dischargers from silviculture activities.

- (e) Mill and crush operations.
  - (f) Underground utility construction, but not including the construction of any above ground structures associated with utility construction.
- (3) Notwithstanding the applicability requirements in § 297-5 A (1), this ordinance applies to post-construction sites of any size that, in the opinion of the Town, 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 Town of Scott, as well as all lands located within the extraterritorial plat approval jurisdiction of the Town of Scott, even if plat approval is not involved.
- 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.

#### **§ 297-6 Technical Standards**

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

- A. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- B. Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Town.
- C. In this ordinance, the following year and location has been selected as average annual rainfall: Green Bay, 1969 (Mar.29-Nov.25)

#### **§ 297-7 Performance Standards**

- A. **RESPONSIBLE PARTY.** The responsible party shall develop and implement a post-construction stormwater management plan that incorporates the requirements of this section.
- B. **PLAN.** A written stormwater management plan shall be developed and implemented by the responsible party in accordance with § 297-9. The stormwater management plan shall meet all of the applicable requirements contained in this ordinance.

- C. **REQUIREMENTS.** The stormwater management plan shall meet the following minimum requirements to the maximum practicable:
- D. **STORMWATER DISCHARGE QUANTITY.** Unless otherwise provided for in this chapter, all land development activities subject to this chapter shall establish on-site best management practices (BMPs) to maintain pre-development peak flow rates of stormwater discharged from the site, for post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with 1 acre or more of land disturbance. Infiltration of stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.
- (1) All peak flow rates and volumes for pre- and post-development shall be calculated using procedures described in TR-55 for design rainfall events with recurrence intervals of 1, 2, 10 and 100 years, 24-hour design storms. The pre-development land use condition shall assume "good hydrologic conditions" for land cover as described in the TR-55 method of calculation. The post-development land use condition shall assume "good hydrologic conditions" for land cover as described in the TR-55 method of calculation for the proposed land use cover types. Unless the site is currently woodland, peak pre-development discharge rates shall be determined using the following runoff curve numbers for a "meadow" vegetative cover:

<b>Soil hydrologic group</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
NRCS curve number for meadow	30	58	71	78
NRCS curve number for woodland	30	55	70	77

- (2) For post-construction sites with less than 20,000 square feet of impervious surface disturbance, prepare a plan that shows how the peak post-development discharge rates are reduced using BMPs from the Wisconsin Department of Natural Resources Technical Standards. These sites are not required to satisfy a numeric stormwater management standard.
- (3) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after December 16, 2008 are required to satisfy the stormwater management standards.
- (4) On-site BMPs shall be designed so that the development shall not increase peak flow discharge rates of stormwater runoff from that which would have resulted from the same storm occurring over the site with the land in its pre-development land use condition. Calculations for determining peak flow discharge rates for BMP sizing shall be based on the existing or future proposed land use conditions for off-site areas (whichever results in the highest peak flows), and the future proposed land use conditions for the on-site areas.
- (5) All stormwater conveyance systems within the proposed development receiving surface runoff from the proposed development shall be designed to completely contain peak discharge storm flows as described in 297-7D.(5)(a), (b), (c) and (d).

Calculations for determining peak flow discharge rates for conveyance system sizing shall be based on the existing or future proposed land use conditions for off-site areas (whichever results in the highest peak flows), and the future proposed land use conditions for the on-site areas.

- (a) For publicly owned or maintained open channel conveyance systems, the peak flow from the 25-year storm shall be completely contained within the channel banks.
  - (b) For publicly owned or maintained storm sewer pipes, the peak flow from the 10-year storm shall be completely contained within the pipes with no surcharging or pressurized flow.
  - (c) Private storm sewer pipes shall be constructed to contain the peak flow from the 5-year storm with no surcharging or pressurized flow.
  - (d) The site shall be designed so that onsite areas can safely pass a design rainfall event with a recurrence interval of 100 years without damage to people or property. In addition the site shall not block or impede the flow of water offsite areas.
- (6) All discharges will be restricted to public drainage systems (including storm sewers and ditches) or to waters of the state. It shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water from the proposed development onto private lands when the water had not done so prior to the development.
- (7) Increases or decreases in the hydrology of natural wetlands shall be minimized to the extent practical. Where such changes are proposed, the impact of the proposal on wetland shall be assessed and shall meet the requirements of Wis. Admin. Code Chap. NR 103.
- (8) An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.
- (9) Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of this paragraph (b) provided the transportation facility is not part of a larger common plan of development or sale:
- (a) A transportation facility where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.
  - (b) Except as provided under § 297-7 D.4. to 6., a highway reconstruction site.
  - (c) Except as provided under § 297-7 D.4. to 6., a transportation facility that is part of a redevelopment project.

**E. STORMWATER DISCHARGE QUALITY.** BMPs shall be designed, installed and

maintained to control pollutants carried in runoff from post-construction sites. The design shall be based on average annual rainfall, as compared to no runoff management controls:

- (1) For post-construction sites with 1 acre or more of land disturbance the following is required:
  - (a) Except as provided in § 297-7 E (1) (b) a pollutant reduction is required as follows:

Watershed	Total Suspended Solids (TSS) & Total Phosphorus (TP) Reduction					
	New Development		Redevelopment		Routine Maintenance	
	TSS	TP	TSS	TP	TSS	TP
Lower Green Bay	80%	60%	40%	30%	40%	30%
Red River	80%	60%	40%	30%	40%	30%

- (b) A pollutant reduction is not required for routine maintenance areas that are part of a post-construction site with less than 5 acres of disturbance.
- (2) For post-construction sites with less than 1 acre of disturbance, not in a TMDL watershed, reduce the pollutant loading using BMPs from the Wisconsin Department of Natural Resources Technical or other practices approved by the Town.
- (3) Sites, including common plan of development sites, with a cumulative addition of 20,000 square feet or greater of impervious surface after December 16, 2008 are required to satisfy the performance standards within § 297-7 E (1) (a) and (b).
- (4) The amount of pollutant control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- (5) When designing BMPs, runoff draining to the BMP from offsite areas shall be taken into account in determining the treatment efficiency of the practice. Any impact on the BMP efficiency shall be compensated for by increasing the size of the BMP accordingly. The pollutant load reduction provided by the BMP for an offsite area shall not be used to satisfy the required onsite pollutant load reduction, unless otherwise approved by the Town in accordance with § 297-7 E .
- (6) If the design cannot meet the water quality performance standards of § 297-7 E(1) through (5), the storm water management plan shall include written, site specific explanation of why water quality performance standard cannot be met and why the pollutant load will be reduced only to the maximum extent practicable. Except as provided in § 297-7 E(6), the Town may not require any person to exceed the applicable water quality performance standard to meet the requirements of the maximum extent practicable.

F. INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, except as provided in subs. 8. through 12.

- (1) For post-construction developments with 20,000 square feet or more of impervious

surface disturbance and post-construction developments with 1 acre or more of land disturbance, the following is required:

- (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% 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 1% of the project 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-construction infiltration volume shall be at least 75% of the pre-development infiltration volume, based on average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the post-construction site is required as an effective infiltration area.
  - (c) *High Imperviousness.* For development with more than 80% 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% of the post-construction site is required as an effective infiltration area.
- (2) Pre-development condition shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. The actual pre-development vegetative cover and the following pre-development runoff curve numbers shall be used:

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

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

- (3) For construction sites with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the Town of Scott Storm Water Reference Guide. These sites are not required to satisfy a numeric performance standard.



- (4) Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date December 16, 2008 of this ordinance are required to satisfy the performance standards within §297-7 F. 1. and 2.
- (5) The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- (6) When designing BMPs, runoff draining to the BMP from offsite areas shall be taken into account in determining the performance of the practice. Any impact on the BMP performance shall be compensated for by increasing the size of the BMP accordingly. The runoff volume reduction provided by the BMP for an offsite area shall not be used to satisfy the required onsite runoff volume reduction, unless otherwise approved by the Town in accordance with § 297-7 E.
- (7) *Pretreatment.* Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 14. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- (8) *Source area prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meet the requirements of § 297-7.F unless demonstrated to meet the conditions of § 297-7 F(14):
  - (a) Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking. Rooftops may be infiltrated with concurrence of the Town.
  - (b) Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.
  - (c) Fueling and vehicle maintenance areas. Rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the Town.
  - (d) Agricultural production areas that contain livestock, animal waste, or feed storage.
- (9) *Source area exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these sources is optional:
  - (a) Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
  - (b) Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions under section 9.

- (c) In-fill areas less than 5 acres.
  - (d) Redevelopment and routine maintenance areas.
  - (e) Roads in commercial, industrial and institutional land uses, and arterial residential roads.
- (10) *Prohibitions.* Infiltration practices may not be located in the following areas:
- (a) Areas within 1,000 feet up gradient or within 100 feet down gradient of direct conduits to groundwater.
  - (b) Areas within 400 feet of a community water system well as specified in s.NR811.16(4), Wis. Adm. Code, or within the separation distance listed in s. NR 812.08, Wis. Adm. Code, for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial, and institutional land uses or regional devices for one- and two family residential development.
  - (c) 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.
- (11) *Separation distances.* Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with the following:

Separation Distances and Soil Characteristics		
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	
All Other Impervious Source Areas	3 feet or more	Filtering Layer

Notwithstanding section 12, applicable requirements for injection wells classified under ch. NR 815, Wis. Adm. Code, shall be followed.

- (12) *Infiltration rate exemptions.* Infiltration practices located in the following area may be credited toward meeting the requirement under the following conditions, but the decision to infiltrate under these conditions is optional:
- (a) Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
  - (b) Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
- (13) *Alternate uses.* 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.
- (14) *Groundwater standards*
- (a) Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, 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.
  - (b) Notwithstanding subd. par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

## G. PROTECTIVE AREAS

- (1) "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.
  - (a) For outstanding resource waters and exceptional resource waters, 75 feet.
  - (b) 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.
  - (c) For lakes, 50 feet.
  - (d) For wetlands not subject to paragraphs e or f, 50 feet
  - (e) For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
  - (f) For moderately susceptible wetlands, 50 feet. Moderately susceptible wetlands include, but not limited to: shrub wetlands, floodplain forests, fresh wet meadows, deep/shallow marshes, and forested wetlands. Perennial and intermittent streams also fit in this protective area designation.
  - (g) 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.
  - (h) In subd. 1 a., d. and e., 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.
  - (i) For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
- (2) Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with s. NR 103.08(lm). 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. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

- (3) This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 6 below.
- (4) The following requirements shall be met:
  - (a) Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. If there is not practical alternative to locating the impervious surface in the protective area, the storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
  - (b) 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.
  - (c) 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.
- (5) A protective area established or created after the adoption date December 16, 2008 of this ordinance shall not be eliminated or reduced, except as allowed in subd. 6.b, c, or d below.
- (6) *Exemptions.* The following areas are not required to meet the protective area requirements:
  - (a) Redevelopment and routine maintenance areas provided the minimum requirements within subd. 5 above are satisfied.
  - (b) Structures that cross or access surface waters such as boat landings, bridges and culverts.
  - (c) Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
  - (d) 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.

H. **FUELING AND VEHICLE MAINTENANCE AREAS.** Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum contamination within runoff, such that the runoff that enters the Town's storm sewer system or waters of the state contains no visible petroleum sheen.

I. **SWALE TREATMENT FOR TRANSPORTATION FACILITIES.** This subsection is not applicable to transportation facilities that are part of a larger common plan of development or

sale.

- (1) **Applicability.** Except as provided in subd. 2., 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:
  - (a) Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
  - (b) Swales shall comply with the Wisconsin Department of Natural Resources Technical Standard 1005, "Vegetated Infiltration Swale", except as otherwise authorized in writing by the Wisconsin Department of Natural Resources.
- (2) **Exemptions.** The Zoning Administrator 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:
  - (a) An outstanding resource water.
  - (b) An exceptional resource water.
  - (c) 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.
  - (d) Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

J. **EXEMPTIONS.** The Zoning Administrator may waive the minimum requirements for on-site stormwater management practices established in § 297-7 C, upon written request of the applicant, provided that at least one of the following conditions applies:

- (1) Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
- (2) The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.
  - (a) Reconditioning or resurfacing of a highway.
  - (b) Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within NR 151.24(6) Wisconsin Administrative Code apply to minor reconstruction of a highway.
  - (c) A transportation facility post-construction site with less than 10% connected imperviousness based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre.

Notwithstanding this exemption, the protective area requirements of § 297-7 still apply.

- (d) Routine maintenance for transportation facilities that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (e) Routine maintenance if performed for storm water conveyance system cleaning.

K. 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.

L. LOCATION AND REGIONAL TREATMENT OPTION.

- (1) GENERAL. To comply with § 297-7 performance standards, the BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
- (2) BMP IN NON-NAVIGABLE WATERS. For the purposes of determining compliance with the performance standards of § 297-7, the Town may give credit for BMPs that function to provide treatment for runoff from existing development and post-construction runoff from new development, redevelopment, and routine maintenance area and that are located within non-navigable waters.
- (3) BMP IN NAVIGABLE WATERS. 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) *New Development Runoff*. Except as allowed under § 297-7, BMPs designed to treat post-construction runoff from new development areas may not be located in navigable water and, for purposes of determining compliance with the performance standards of § 297-7, the Town may not give credit for such BMPs.
  - (b) *New Development Runoff Exemption*. BMPs to treat post-construction runoff from new development area may be located within navigable waters and may be creditable by the Town under § 297-7, if all the following are met:
    - i. The BMP was constructed prior to October 1, 2002 and received all

applicable permits.

- ii. The BMP functions or will function to provide runoff treatment for the new development area.
- (c) *Existing Development & Post-Construction Runoff From Redevelopment, Routine Maintenance, & Infill Development Areas.* Except as provided in § 297-7, BMPs designed to treat post-construction runoff for existing development and post-construction runoff from redevelopment, routine maintenance and infill development areas may not be located in navigable water and, for purposes of determining compliance with performance standards of § 297-7, the Town may not give credit for such BMPs.
- (d) *Existing Development & Post-Construction Runoff From Redevelopment, Routine Maintenance, & Infill Development Areas Exemption.* BMPs that function to provide treatment of runoff from existing development and post-construction runoff from redevelopment, routine maintenance and infill development areas may be located within navigable water and, for purposes of determining compliance with performance standards of § 297-7, the Town may give credit for such BMPs, if any of the following are met:
- i. The BMP was constructed, contracts were signed and bids advertised and all applicable permits were received prior to January 1, 2011.
  - ii. The BMP is on an intermittent waterway and all applicable permits are received.
- (4) OFFSITE OR REGIONAL BMP.
- (a) The amount of credit the Town may give an offsite or regional BMP for purposes of determining compliance with the performance standards of § 297-7 is limited to the treatment capacity or performance of the BMP.
- (b) The Town may authorize credit for an offside or regional BMP provided all the following conditions are satisfied:
- i. The BMP received all applicable permits.
  - ii. The BMP shall be installed and operational before the construction site has undergone final stabilization.
  - iii. The BMP shall be designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by onsite BMPs meeting the § 297-7 performance standards.
  - iv. The owner of the BMP has entered into a maintenance agreement with the Town, or other municipal entity, such that the BMP has a legally obligated entity responsible for its long-term operation and maintenance. Legal authority exist if a municipality owns, operates,



and maintains the BMP.

- v. The owner of the BMP has provided written authorization which indicates the permit applicant may use the BMP for § 297-7 performance standards compliance.
- vi. Where an offsite or regional BMP option exists such that the Town expects the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Town. In determining the fee for post-construction runoff, the Town shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the offsite or regional BMP.

- (5) **WATER QUALITY TRADING.** To comply with § 297-7 performance standards, the Town may authorize credit for water quality trading provided all of the following conditions are satisfied:
  - (a) The treatment practices associated with a water quality trade shall be in place, effective and operational before credit can be authorized.
  - (b) The water quality trade shall comply with applicable trading ratios established by the Wisconsin Department of Natural Resources or the Town.
  - (c) The water quality trade shall comply with applicable regulations, standards, and guidance by the Wisconsin Department of Natural Resources or the Town.
  - (d) The responsible party shall furnish a copy of executed water quality trading agreements or other related information deemed necessary by the Town in order to authorize credit.
- (6) **TARGETED PERFORMANCE STANDARDS.** The Town may establish numeric water quality requirements that are more stringent than those set for in § 297-7 in order to meet target performance standards, total maximum daily loads, and/or water quality standards for a specific water body or area. The Numeric quality requirements may be applicable to any permitted site, regardless of the size of land disturbing construction activity.
- (7) **ALTERNATE REQUIREMENTS.** The Zoning Administrator may establish storm water management requirements more stringent than those set forth in this section if the Zoning Administrator determines that an added level of protection is needed to protect sensitive resources. Also, the Zoning Administrator may establish storm water management requirements less stringent than those set forth in this section if the Zoning Administrator determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by Wisconsin Department of Natural Resources under NR 151 Wisconsin Administrative Code.

**§ 297-8 Permitting Requirements, Procedures and Fees.**

- A. **PERMIT REQUIRED.** No landowner or other person or entity may undertake a land development activity subject to this chapter without receiving a permit from the Zoning Administrator prior to commencing the proposed activity.
- B. **PERMIT APPLICATION AND FEE.** Unless specifically exempted by this chapter, any landowner or other person or entity desiring a permit shall submit to the Zoning Administrator a permit application.
- (1) Unless otherwise exempted by this chapter, a permit application must be accompanied by the following in order for the permit application to be considered by the Zoning Administrator:
    - (a) a stormwater management plan;
    - (b) a maintenance plan and a maintenance agreement;
    - (c) any easements which may be required over downstream property;
    - (d) a copy of plans and specifications for all stormwater facilities;
    - (e) a non-refundable permit administration fee; and
    - (f) performance security, if applicable by § 297-11.
  - (2) The stormwater management plan shall be prepared to meet the requirements of § 297-9 of this chapter and the maintenance agreement shall be prepared to meet the requirements of § 297-10 of this chapter.
  - (3) Review fees shall be those incurred by the Town and billed to the applicant for actual expenses charged to the Town by its consultants to review the stormwater management plan and administrative costs incurred by the Town.
- C. **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The Zoning Administrator shall review any permit application that is submitted with the items required under § 297-7B. The following procedure shall apply:
- (1) Within 30 business days of the receipt of a complete permit application, including all documents as required by § 297-7B, the Zoning Administrator shall inform the applicant whether the application, stormwater management plan and other required documents are approved or disapproved. The Zoning Administrator shall base the decision on requirements set forth in this chapter.
  - (2) If the stormwater permit application, stormwater management plan, and other documents are approved, the Zoning Administrator shall issue the permit.
  - (3) If the stormwater permit application, stormwater management plan and other documents are disapproved, the applicant may revise the application and other

documents.

- (4) If additional information is submitted by the applicant, the Zoning Administrator shall have 30 business days from the date the additional information is received to inform the applicant that the application, stormwater management plan and other documents are either approved or disapproved.
- (5) Failure by the Zoning Administrator to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed approval of the submittal. Upon notice to the applicant prior to expiration of the 30 business day period, the Zoning Administrator may extend the time for review of the application beyond 30 business days for complex projects.

D. PERMIT CONDITIONS. All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The Zoning Administrator may suspend or revoke a permit for violation of a permit condition upon written notification to the permittee. An action by the Zoning Administrator to suspend or revoke this permit may be appealed in accordance with § 297-14 of this chapter.

- (1) Compliance with this permit does not relieve a permittee from the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (2) A permittee shall design, install, and maintain all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and other documents.
- (3) A permit holder shall notify the Zoning Administrator at least 10 business days before commencing any work in conjunction with the stormwater management plan and within 10 business days upon completion of the stormwater management practices. If required as a special condition, the
- (4) Permit holder shall make additional notification according to a schedule set forth by the Zoning Administrator so that practice installations can be inspected during construction.
- (5) Completed stormwater management practices must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and ordinance. The Zoning Administrator or other competent professionals identified by the Zoning Administrator shall make the inspection. The Zoning Administrator shall notify a permittee in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- (6) A permittee shall submit any proposed modifications to an approved stormwater management plan in writing to the Zoning Administrator at least 30 days prior to execution. The Zoning Administrator may require that a proposed modification be submitted as an original permit application for approval prior to incorporation into the stormwater management plan and execution.

- (7) A permittee shall maintain all stormwater management practices specified in the approved stormwater management plan until the practices either become the responsibility of the Town or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (8) The permittee shall inspect the BMPs annually and after runoff events in accordance with storm water management plan reference in section § 297-9. The permittee shall have a licensed professional submit a stamped written inspection report to the Town for review and approval every five years.
- (9) The Zoning Administrator shall assure that any work or operations necessary to bring stormwater management measures into conformance with an approved stormwater management plan is performed. All costs incurred by the Town shall be paid by the permittee. Any costs not paid timely by the permittee shall be placed upon the tax roll as a special charge against the property pursuant to Wis. Stats. § 66.0627.
- (10) If so directed by the Zoning Administrator, a permittee shall repair, at the permittee's expense, all damage to adjoining Town facilities and drainage ways caused by stormwater runoff where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
- (11) A permittee shall permit property access to the Zoning Administrator and his assignees for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- (12) Where a stormwater management plan involves direction of some or all runoff off-site, it shall be the responsibility of the permittee to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Issuance of this permit does not create or affect any such rights.
- (13) A permittee is also subject to the enforceable actions detailed in § 297-13 of this chapter if the permittee fails to comply with the terms of a permit.

E. **PERMIT DURATION.** Permits issued under this section shall be valid from the date of issuance through the date the Zoning Administrator notifies the permittee that all stormwater management practices have passed the final inspection or the permit is suspended or revoked pursuant to § 297-13 of this chapter.

### **§ 297-9 Stormwater Management Plans.**

A. **PLAN REQUIREMENTS.** All site investigations, plans, designs, computations, and drawings shall be certified by a registered professional engineer in the State of Wisconsin to be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by this chapter. The stormwater management plan required under § 297-9 of this chapter shall contain the following:

- (1) Name, address and phone number for the landowner, the developer, the project engineer and person(s) responsible for maintenance of the design.

- (2) A legal description of the property to be developed.
- (3) Pre-development land use conditions including:
  - (a) Site map(s), location, soil type(s), existing cover and condition, contours, existing drainage, watershed boundary, and stormwater ditches on or adjacent to the site.
  - (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 land use conditions, including:
  - (a) Explanation of provisions to preserve/use natural topography and undisturbed land in order to minimize changes in peak flow and/or volume of runoff for post-construction sites.
  - (b) Explanation of any restrictions on stormwater in the development area.
  - (c) Site map(s) showing post-construction pervious areas including vegetative cover type and condition, impervious surfaces, post-construction contours and drainage, drainage easements, maintenance agreements and easements, stormwater conveyance systems, on- and off-site drainage area, watershed boundaries, and any changes to lakes, streams, wetlands, channels, ditches, and watercourses on or adjacent to the site.
  - (d) Total area of disturbed impervious surfaces within the site and total area of new impervious surfaces within site.
  - (e) Hydrology and pollutant loading as required.
  - (f) Proposed best management practices.
  - (g) Results of any soil or groundwater testing required for the placement of any BMP designs, including detailed drawings and cross sections of stormwater conveyance systems.
  - (h) Separation distances. Storm water management practices shall be adequately separated from wells to prevent contamination of drinking water.
- (5) Installation schedule and maintenance plans for BMPs.
- (6) Cost estimates, site investigations, plans, designs, computations, and drawings for any BMPs.
- (7) Any other information requested by the Town.

- B. EXCEPTIONS. The Zoning Administrator may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under § 297-7 K. of this chapter.

**§ 297-10 Maintenance Agreements.**

- A. MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required for stormwater management practices under § 297-8 B of this chapter shall be an agreement between the Town and the permittee. The agreement shall be recorded as a property deed restriction by the permit applicant with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the stormwater management practices.
- B. AGREEMENT PROVISIONS. The maintenance agreement shall contain the following provisions:
- (1) Identification of the storm water facilities and designation of the drainage area served by the facilities.
  - (2) The landowner shall maintain stormwater management practices in accordance with the stormwater practice maintenance provisions contained in the approved stormwater management plan submitted under § 297-8 B. of this chapter.
  - (3) The Zoning Administrator is authorized to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan.
  - (4) The Zoning Administrator shall maintain public records of the results of the site inspections, shall inform the landowner or other person or entity responsible for maintenance of the results of any inspection, and shall specifically indicate any corrective actions required to bring the stormwater management practice into proper condition and a reasonable time frame in which the corrective action must be taken.
  - (5) The Zoning Administrator is authorized to perform the corrected actions identified in the inspection report if the landowner or other person or entity fails to make the required corrections in the specified time period. The Town shall charge the landowner for the cost of such work and upon failure to receive payment for such work, shall levy a special charge on the property pursuant to Wis. Stats. § 66.0627.
- C. ALTERNATE REQUIREMENTS. The Zoning Administrator may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards or for applicants seeking a permit for a post- construction site with less than 20,000 square feet of impervious surface disturbance.
- D. TERMINATION OF AGREEMENT. The maintenance agreement shall be terminated at such time that responsibility for maintenance of the stormwater management practice is legally transferred to the Town or agency acceptable to the Town, through a written, binding agreement. The termination date of the maintenance agreement required under § 297-8 B. shall be the date upon which the legal transfer of maintenance responsibility to the Town or other agency is made effective.

**§ 297-11 Financial Guaranty.**

- A. ESTABLISHMENT OF THE GUARANTY. The Zoning Administrator may require the submittal of a financial guaranty, the form and type of which shall be acceptable to the Zoning Administrator. The financial guaranty shall be in an amount determined by the Zoning Administrator to be 125% of the estimated cost of construction. The financial guaranty shall give the Zoning Administrator the authorization to use the funds to complete the project if the landowner defaults or does not properly implement the approved stormwater management plan.
  
- B. CONDITIONS FOR RELEASE. Conditions for release of the financial guaranty are as follows:
  - (1) The Zoning Administrator shall release the portion of the financial guaranty established to assure installation of stormwater practices, minus any costs incurred by or on behalf of the Zoning Administrator to complete installation of stormwater practices, upon submission of "as built plans" by a licensed professional engineer. The Zoning Administrator may make provisions for a partial pro rata release of the financial guaranty based on the completion of stages of the stormwater management system.
  
  - (2) The Zoning Administrator shall determine if the responsible party has performed the maintenance of the stormwater management practices in accordance with the maintenance agreement. The maintenance shall be performed to the satisfaction of the Zoning Administrator.
  
- C. ALTERNATE REQUIREMENTS. The Zoning Administrator may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards or for applicants seeking a permit for a post- construction site with less than 20,000 square feet of impervious surface disturbance.

**§ 297-12 Discharges Regulated.**

- A. DISCHARGE TO SANITARY SEWERS. No person shall discharge any clear water by means of sump pump or roof drains into any sanitary sewer, and no person shall permit rainwater or surface water to drain directly into any sanitary sewer.
  
- B. DISCHARGE TO STORM SEWER. All clear water shall discharge directly into a storm sewer where such sewer is available, and the director of public works may direct such connection if he deems it necessary and in the public interest.
  - (1) PERMIT REQUIRED. No person shall open any street, alley or other public place for the purpose of connecting to a storm sewer or other terminal without first obtaining from the director of public works a written permit to open such street, alley or public place.
  
  - (2) INSPECTION. Any person receiving a permit to connect to a storm sewer shall notify the street superintendent whenever the work is ready for inspection. All work

shall be left uncovered until examined and approved by the superintendent.

- C. **DISCHARGE TO PUBLIC STREETS.** No person shall discharge any clear water directly into a public street or alley from November 1 to March 31, inclusive. No person shall discharge any clear water directly into a public street or alley from April 1 to October 31, inclusive, without first obtaining from the director of public works, a written permit to do so.
- D. **OTHER DISCHARGES.** Where a storm sewer is not available, the discharge of clear water shall be either
  - (1) Into a underground conduit leading into a drainage ditch;
  - (2) Onto the ground surface at least one foot sloping away from the building foundation and directed toward the front or rear lot line.

Such discharge shall not be directed so as to flow on adjacent property nor shall the discharge be allowed to accumulate and create ponds of standing water or other public nuisance. Nothing contained in this subsection shall act to relieve a person from complying with the other provisions of this section.

- E. **CORRECTION; PENALTY.** Any person who is the owner of any building or land wherein there is a violation of the provisions of this section, shall cause the violation to be corrected within a maximum of 60 days after being notified in writing by the director of public works, whose duty it shall be to enforce this section. Any person who shall thereafter continue to violate the provisions of this section shall be subject to the forfeiture provided for violation of this chapter. Nothing in this section shall preclude the Town from maintaining any other appropriate action to prevent or remove a violation of this section.

### **§ 297-13 Enforcement and Penalties.**

- A. Any activity initiated after the effective date of this chapter by any person or entity subject to the provisions of this chapter shall be deemed a violation unless conducted in accordance with said provisions.
- B. The Zoning Administrator may issue a citation or a Notice of Violation in order to correct any violation of this chapter. A Notice or Violation shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.
- C. Upon receipt of written notification from the Zoning Administrator, a permittee shall correct work that does not comply with the stormwater management plan or other provisions of the permit within 30 days. A permittee shall make corrections as necessary to meet the specifications and schedule set forth by the Zoning Administrator in the notice.
- D. The Zoning Administrator may issue a stop work order on any land development activity that is taking place in violation of this ordinance.
- E. The Zoning Administrator may suspend or revoke a permit issued under this ordinance for noncompliance with the provisions of this chapter.



- F. Any permit revocation or stop work order shall remain in effect unless retracted by the Zoning Administrator or by a court of competent jurisdiction.
- G. Any person or entity who fails to comply with any provision of this chapter or order issued hereunder shall be subject to a forfeiture under **Section I-16A.(5)** of this Code.
- H. When the Zoning Administrator determines that a permittee has failed to follow practices set forth in the stormwater management plan submitted and approved pursuant to this chapter, or has failed to comply with schedules set forth in said stormwater management plan, the Zoning Administrator or a party designated by the Zoning Administrator may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with the requirements of the approved stormwater management plan. The Zoning Administrator shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial guaranty posted pursuant to § 297-10 of this chapter. Where a financial guaranty has not been established, or where such financial security is insufficient to cover these costs, the costs and expenses shall be billed to the landowner and upon default of payment shall be entered on the tax roll as a special charge against the property pursuant to Wis. Stats. § 66.0627 and collected with any other taxes levied thereon for the year in which the work is completed.
- I. Nothing in this ordinance shall limit or exclude the Town from taking any other action under any Town municipal code, state statute, or other remedy allowed by law.

**§ 297-14 Appeals.**

- A. **TOWN BOARD.** The Town Board shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Zoning Administrator in administering this chapter. The Town Board shall also use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Town Board may authorize variances from the provisions of this chapter which are not contrary to the public interest and where owing to special conditions a literal enforcement of this chapter will result in unnecessary hardship.
- B. **WHO MAY APPEAL.** Appeals to the Town Board may be taken by any aggrieved person or by an officer, department, board or bureau of the Town affected by any decision of the administering authority.

**§ 297-15 Severability.**

- A. If any section, clause, provision or portion of this chapter 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."
  - (1) All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.
  - (2) **§ I-16A.(5)(a)** of the Scott Municipal Code is hereby amended to read as follows:
    - "(a) § 297-13G, penalty: not less than \$50 nor more than \$10,000 per offense."

SECTION 2 That all ordinances or parts thereof in conflict herewith are hereby repealed.

SECTION 3 That this ordinance shall take effect immediately upon passage, posting, and publication of the same.

The above foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Scott on the \_\_\_\_\_ day of \_\_\_\_\_ 2016.

**TOWN OF SCOTT**

**By:** \_\_\_\_\_  
**Town Board Chairperson**

ATTEST:

\_\_\_\_\_  
Town Clerk/Administrator

Vote:  
Yes: \_\_\_\_\_  
No: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Posted: \_\_\_\_\_  
Published: \_\_\_\_\_