

**STORM WATER MANAGEMENT PRACTICES
MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between TNG 27, LLC, its successors and assigns including the Yorkshire Highlands Homeowner's Association when responsibilities are transferred to it pursuant to the Restrictive Covenants for Yorkshire Highlands (hereinafter called the "Owner"), and the Village of Yorkville, (hereinafter called the "Village").

WITNESSETH:

WHEREAS, the Owner is the owner of the following described lands situated in the Village of Yorkville, County of Racine, State of Wisconsin, to-wit:

Being a part of the Northeast 1/4, Southeast 1/4, Southwest 1/4 and Northwest 1/4 of the Southwest 1/4 of Section 1, Township 3 North, Range 21 East, in the Village of Yorkville, Racine County, Wisconsin, described as follows: Commencing at the the Southeast corner of the Southwest 1/4 of said Section 1; thence South 87°53'43" West along the south line of said Southwest 1/4, 1525.67 feet to the Point of Beginning; Thence continuing South 87°53'43" West along said south line, 635.99 feet to a meander line for the East Branch Root River Canal; thence North 03°35'36" West along said meander line, 1173.36 feet; thence North 40°55'58" East along said meander line, 1574.57 feet; thence North 01°39'28" West, 46.44 feet; thence North 44°03'28" East, 145.04 feet; thence North 33°33'42" East, 32.01 feet; thence North 05°28'42" East, 169.35 feet to the north line of said Southwest 1/4; thence North 88°12'22" East along said north line, 991.78 feet to the northeast corner of the Southwest 1/4 of said Section 1; thence South 01°40'08" East along the east line of said Southwest 1/4 of said Section 1, 1943.84 feet; thence South 87°53'43" West, 1135.52 feet; thence North 1°39'28" West, 457.54 feet; thence South 87°53'43" West, 390.01 feet; thence South 01°39'28" East, 1173.00 feet to the Point of Beginning. Also including lands between said meander line and the centerline of said East Branch Root River Canal.

hereinafter called the "Property".

WHEREAS, the Owner is developing the property; and

WHEREAS, the Site Plan known as Yorkshire Highlands, hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the Village, provides for on-site storm water management practices within the confines of the Property; and

WHEREAS, the Village and the Owner, its successors and assigns, agree that the health, safety and welfare of the residents of the Village of Yorkville, require that on-site storm water management practices as defined in Chapter 10 of the Village of Yorkville Code of Ordinances be constructed and maintained on the Property; and

WHEREAS, the Village requires that on-site storm water management practices as shown on the Plan be constructed and adequately maintained by the Owner, its successors and assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The on-site storm water management practices shall be constructed by the Owner, its successors and assigns, in accordance with the plans and specifications indicated in the Plan and applicable statutes, ordinances and rules. The storm water management

practices shall serve the drainage area designated in the Plan.

2. The Owner, its successors and assigns, shall regularly inspect the storm water management practices and specifically the function of the approved storm water management system as often as conditions require, but in any event at least once each year. The standard Operation and Maintenance Report attached to this agreement as Exhibit D and by this reference made a part hereof shall be used for the purpose of the regular inspections of the storm water management practices. The Owner, its successors and assigns shall keep the Operation and Maintenance Reports from past inspections as well as a log of maintenance activity indicating the date and type of maintenance completed. The Reports and maintenance log shall be made available to the Village for review. The purpose of the inspections is to assure safe and proper functioning of the facilities. The inspections shall cover all facilities including but not limited to berms, outlet structures, pond areas and access roads. Deficiencies shall be noted in the Operation and Maintenance Report.
3. The Owner, its successors and assigns, shall adequately maintain the storm water management practices, including but not limited to all pipes and channels built to convey storm water to the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the storm water. Adequate maintenance is herein defined as keeping the storm water management facilities in good working condition so that these facilities are performing to their design functions and are in accordance with the Operations and Maintenance Standards attached to this agreement as Exhibit D and by this reference made a part hereof.
4. The Owner, its successors and assigns, hereby grant permission to the Village, its authorized agents and employees, to enter upon the Property and to inspect the storm water management practices whenever the Village deems necessary. Inspections of the storm water management practices by the Village Engineer shall usually occur on an approximate annual basis. The cost of the annual inspections shall be reimbursed to the Village by the Owner, its successors and assigns, within thirty (30) days of billing. The purpose of inspection is to monitor the condition and performance of the storm water management practices, investigate reported deficiencies and/or to respond to citizen complaints. The Village shall provide the Owner, its successors and assigns, copies of the inspection findings and a directive to commence with the repairs if necessary. Corrective actions shall be taken within a reasonable time frame as established by the Village Engineer.
5. If the Owner, its successors and assigns, fails to maintain the storm water management practices in good working condition, consistent with the terms of the approved plans and specifications approved by the Village and does not perform the required corrective actions and inspections in the specified time, the Village may:
 - a. Issue a citation to the Owner, its successors and assigns. Each day that the violation exists shall constitute a separate offense, and shall be considered a continuing violation.
 - b. Perform the corrective actions identified in the inspection report and assess the Owner, its successors and assigns for the cost of such work. The cost of such work may be specially assessed against the property pursuant to Wisconsin Statutes Section 66.0703. This provision shall not be construed to allow the Village to erect any structure of permanent nature on the land of the Owner outside of the easement for the storm water management practices, and in no event shall this Agreement be construed to impose any such obligation on the Village.
6. The Owner, its successors and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the storm water management practices (including sediment removal) is outlined on

the approved plans, the schedule will be followed. The minimum amount of maintenance on the storm water management practices shall be in accordance with the Maintenance Standards (Exhibit D).

7. In the event the Village pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Owner, its successors and assigns, shall reimburse the Village upon demand, within thirty (30) days of receipt for all actual costs incurred by the Village hereunder.
8. This Agreement imposes no liability of any kind whatsoever on the Village, its officers, agents and employees, and the owner agrees to indemnify and hold the Village harmless as and against any and all claims, actions, causes of action, demands, including attorney fees which the Village may incur as a result of the failure of the storm water management system and/or actions taken or not taken by the Village to enforce the terms of this agreement including, but not limited to, the performance of maintenance activities.
9. This Agreement shall be recorded at the Racine County Register of Deeds, and shall constitute covenant running with the land, and shall be binding on the Owner, its administrators, executors, assigns, heirs and any other successors in interests.
10. Notwithstanding anything in this Agreement to the contrary, in the event the Owner, or the Owner's successors and assigns, sell or otherwise transfer ownership in the Property, the Owner and the Owners successors and assigns, are hereby released from any and all liabilities and obligations under the terms of this Agreement.

WITNESS the following signatures and seals:

Company Corporation Partnership Name (Seal)

(Type Name), (Type Title)

The foregoing Agreement was acknowledged before me this _____ day of
_____ 20 , by _____.

NOTARY PUBLIC

My Commission Expires: _____

Village of Yorkville,
Racine County, Wisconsin

Douglas Nelson, Village Board President

Michael McKinney, Administrator/Clerk

STATE OF WISCONSIN)
)ss.
COUNTY OF RACINE)

Personally came before me this ____ day of _____, _____, the above named
Douglas Nelson, Village Board President and Michael McKinney, Administrator/Clerk, to me known to
be the Mayor and Clerk/Treasurer, respectively, of the Village of Yorkville and to me known to be the
persons who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission expires: _____

EXHIBIT A Legal Description

The following description and reduced copy map identify the property affected by this Agreement. For a larger scale view of the referenced document, contact the Racine County Register of Deeds Office.

Project Identifier: **Yorkville 50th Road**

Date of Recording:

Map Produced By: **Pinnacle Engineering Group**

Legal Description: Being a part of the Northeast 1/4, Southeast 1/4, and Northwest 1/4 of the Southwest 1/4 of Section 1, Township 3 North, Range 21 East, in the Village of Yorkville, Racine County, Wisconsin.

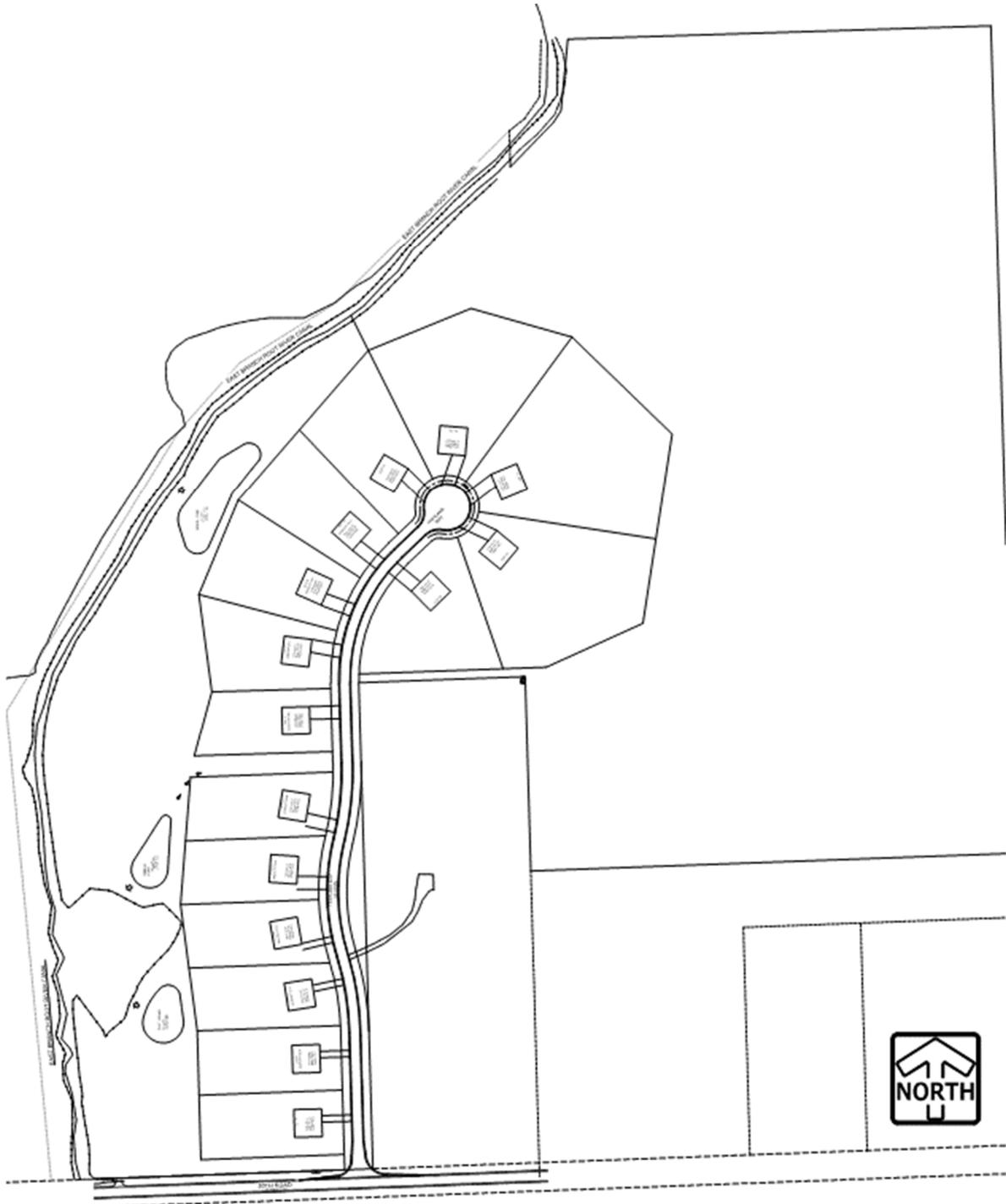


EXHIBIT B
Location Map
Storm Water Management Practices Covered by this Agreement

The storm water management practices covered by this Agreement are depicted in the reduced copy of a portion of the construction plan as shown below. The practices include three wet detention ponds, grassed swales and all associated pipes, earthen berms and other components of these practices. The roadside ditches and road culverts are not covered by this Agreement since they are located in the right-of-way/

Project Name: **Yorkville 50th Road**

Storm Water Practices: (3)- **Wet Detention Pond and grassed swales**

Location of Practices: **Drainage easements**

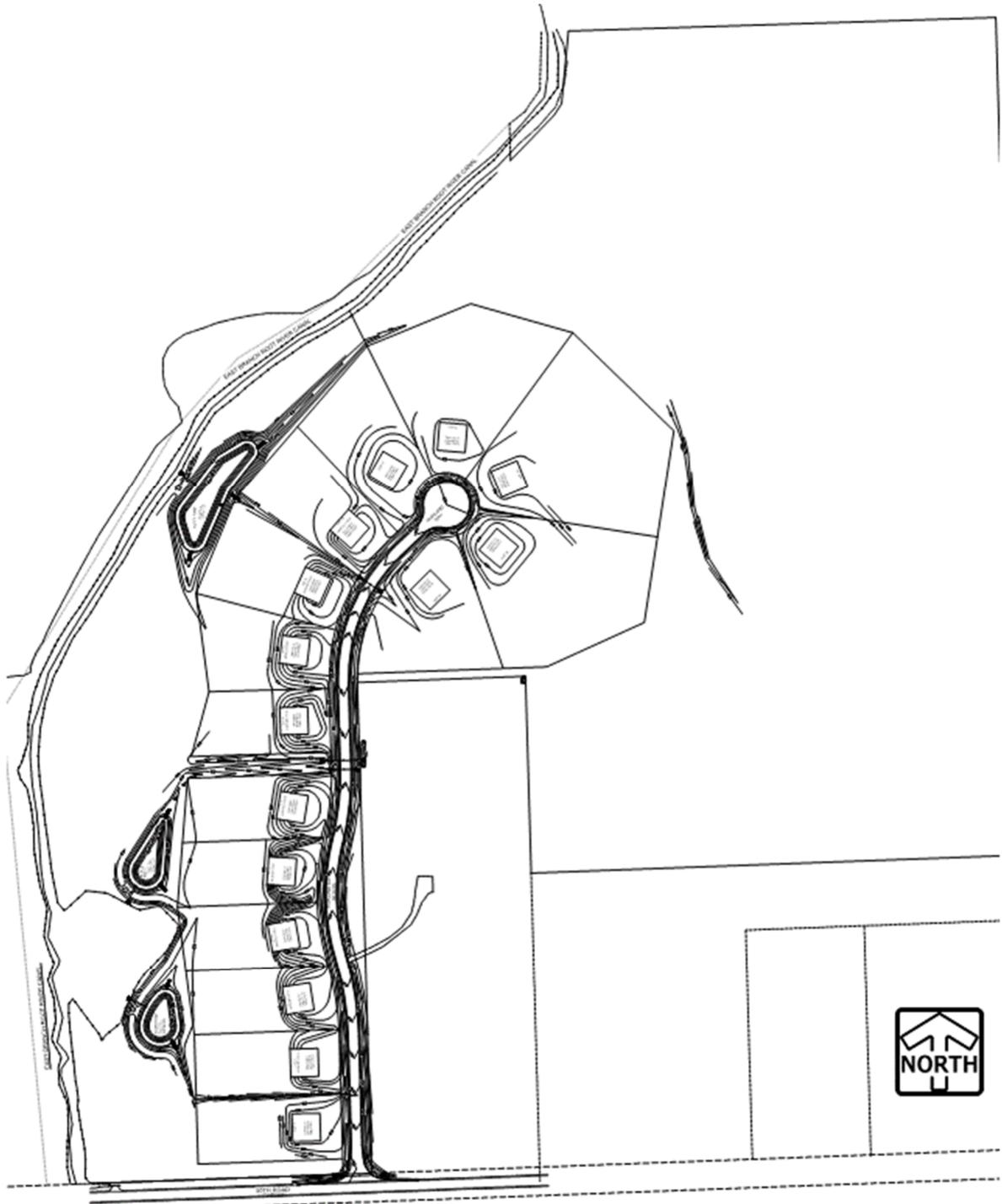


Exhibit C
Minimum Storm Water Practice Maintenance Requirements

This exhibit explains the basic function of each of the storm water practices listed in Exhibit B and prescribes the maintenance requirements beyond the minimum requirements in Exhibit D to remain compliant with this Agreement. The maintenance activities listed below are aimed to ensure these practices continue serving their intended functions in perpetuity. The list of activities is not all inclusive, but rather indicates the minimum type of maintenance that can be expected for this particular site. Access to the storm water practices for maintenance vehicles are the drainage easements. Any failure of a storm water practice that is caused by a lack of maintenance will subject the Responsible Party to enforcement of the provisions of this Agreement by the Village of Yorkville.

System Description:

The storm water system for Yorkshire Highlands consists of three wet detention ponds and grassed swales. The roadside ditches and road culverts are not part of this maintenance agreement as these are located in the right-of-way and are the responsibility of the Village. These systems will be installed to address storm water management on the project site. Storm water requirements include water quantity, water quality and infiltration.

The wet detention ponds are designed to trap a minimum of 80% of sediment in runoff and maintain pre-development downstream peak flows. In order for the wet ponds to be effective, the pond sizes, water levels and outlet structures must be maintained as specified in this Agreement.

NORTH POND receives water from 17.8 acres of drainage area. During high rainfall or snow melts, the water level in the pond will temporarily rise and slowly drain down to the elevation of the outlet control structure. The water level is controlled by a 4-inch dewatering hole (elevation 716.00) in the outlet structure. The outlet structure is a 3'x3' concrete box with a mitered top (top 719.00, bottom 717.50) with a 30-inch outlet pipe (elevation 716.00) directed northwesterly into the East Branch of the Root River. The 4-inch hole will be protected from clogging by a trash grate that is connected to the outlet structure. An emergency spillway (elevation 719.60) is also provided in the berm of the pond to allow for an emergency discharge from the pond due to the outlet pipe clogging or storm events above the 100-year design storm. The wet pond will be clay lined (minimum 2' thick) from the bottom of the pond (elevation 711.00) through the 10-year storm peak water elevation (elevation 718.22). The clay liner from the top of the safety shelf (elevation 716.00) through the bottom of the pond (elevation 711.00) does not have any material covering it. From the top of the safety shelf (elevation 716.00) to the top of the clay liner (elevation 717.60) there shall be a minimum of four inches of topsoil to cover the liner and to allow for grass growth.

MIDDLE POND receives water from 5.2 acres of drainage area. During high rainfall or snow melts, the water level in the pond will temporarily rise and slowly drain down to the elevation of the outlet control structure. The water level is controlled by a 4-inch dewatering hole (elevation 715.90) in the outlet structure. The outlet structure is a 12"x12" Tee with bar grate (top of structure 717.20) with a 12-inch outlet pipe (elevation 715.90) directed south towards the East Branch of the Root River. The 4-inch hole will be protected from clogging by an atrium grate that is connected to the outlet structure. An emergency spillway (elevation 718.80) is also provided in the berm of the pond to allow for an emergency discharge from the pond due to the outlet pipe clogging or storm events above the 100-year design storm. The wet pond will be clay lined (minimum 2' thick) from the bottom of the pond (elevation 710.9) through the 10-year storm peak water elevation (elevation 717.48). The clay liner from the top of the safety shelf (elevation 715.90) through the bottom of the pond (elevation 710.9) does not have any material covering it. From the top of the safety shelf (elevation 715.90) to the top of the clay liner (elevation 716.9) there shall be a minimum of four inches of topsoil to cover the liner and to allow for grass growth.

SOUTH POND receives water from 4.5 acres of drainage area. During high rainfall or snow melts, the water level in the pond will temporarily rise and slowly drain down to the elevation of the outlet control structure. The water level is controlled by a 4-inch dewatering hole (elevation 715.90) in the outlet structure. The outlet structure is a 12"x12" Tee with bar grate (top of structure 717.20) with a 12-inch outlet pipe (elevation 715.90) directed west towards the East Branch of the Root River. The 4-inch hole will be protected from clogging by an atrium grate that is connected to the outlet structure. An emergency spillway (elevation 718.40) is also provided in the berm of the pond to allow for an emergency discharge from the pond due to the outlet pipe clogging or storm events above the 100-year design storm. The wet pond will be clay lined (minimum 2' thick) from the bottom of the pond (elevation 710.9) through the 10-year storm peak water elevation (elevation 717.36). The clay liner from the top of the safety shelf (elevation 715.90) through the bottom of the pond (elevation 710.9) does not have any material covering it. From the top of the safety shelf (elevation 715.90) to the top of the clay liner (elevation 716.7) there shall be a minimum of four inches of topsoil to cover the liner and to allow for grass growth.

Exhibit D
Minimum Operation and Maintenance Requirements

WET DETENTION POND
OPERATION AND MAINTENANCE

I. ROUTINE MAINTENANCE

A. Mowing

1. Side slopes, embankments, and emergency spillways that are not rock lined which have been planted with turf grasses should be mowed at least twice a year to prevent woody growth and control noxious weeds.
2. Native grasses should be mowed to a height of 6" in mid to late summer or after they have achieved a height of 1-1/2 feet during the first growing season. Further mowing in subsequent growing seasons will not be required
3. If possible, the native grass area should be burned off every three to four years in the spring of the year. Check local burning regulations as permits may be required.
4. If burning of the native grass areas is not possible, a 5 to 8" mowing every 3 to 4 years, may suffice as a substitute management technique. The mowed area should be raked and performed in the spring.

B. Inspections

1. Inspections of the ponds shall be completed on a quarterly basis or after significant rainfall events.
2. The inspections should be completed during wet weather conditions to determine if the ponds are functioning properly.
3. Inspection priorities shall be as follows:
 - a. Inspect the embankments for subsidence, erosion, cracking and tree growth.
 - b. Inspect the condition of the emergency spillway and overland flow path.
 - c. Inspect the pond for accumulation of sediment.
 - d. Inspect the outlet control structure for clogs, debris and material failures.
 - e. Inspect upstream and downstream channels from an erosion perspective.
 - f. Inspect any modifications that may have been done to the ponds following their initial construction.
 - g. Inspect the side slopes of the pond for erosion, slumping, cracking or woody plant materials.
4. As-built plans shall accompany the person responsible for the pond inspections.
5. Documentation of the inspections should be completed and filed. Documentation should include at a minimum:
 - a. Inspectors name, affiliation and professional credentials if applicable.
 - b. Date, time and weather conditions.
 - c. Approximate rainfall total over a 24-hour period if applicable.
 - d. Existing embankment, outlet and inlet conveyance systems and vegetation condition.
 - e. Sediment depth at the outlet control structure and at a minimum one other location.

- f. Identification of potential structural failures and repair needs
 - g. Other pond conditions such as vegetation growth, algae growth and emergency spillway conditions.
 - h. Repair recommendations.
 - C. Debris and Litter Removal.
 - 1. Debris and litter removal from the pond surface shall be completed at least once a month.
 - 2. Particular attention should be paid to debris accumulating around the riser pipe to prevent potential clogging.
 - D. Erosion Control.
 - 1. The pond side slopes, embankments and emergency spillways may suffer from periodic slumpage and erosion.
 - 2. Corrective measures shall include re-grading, filling and re-vegetation of the eroded or slumping areas.
 - 3. Rip rap at the pond outlet and emergency spillways should be inspected for displacement or undermining. Repairs shall be made upon discovery.
 - E. Nuisance Control.
 - 1. Biological control of algae and mosquitoes is preferred over chemical control. Consultation with local WDNR officials is recommended prior to the introduction of any biological control.
 - 2. Maintaining the native grass perimeter will aide in the control of geese.
 - 3. Mechanical controls should be used when feasible.
- II. NON-ROUTINE MAINTENANCE
 - A. Structural Repairs and Replacement.
 - 1. The outlets of the pond have been constructed utilizing concrete structures and Reinforced Concrete pipe. The estimate life of these structures is 75 to 100 years. Annual inspection of the structures will disclose any potential structural problems. If structural problems appear, repair or replace the outlet.
 - 2. Any drawdown of the wet pool of the wet pond beyond evaporation must be immediately addressed. Dewater the pond per the Wisconsin DNR Technical Standard 1061 and have a soil expert inspect the clay liner for any areas that need repair. Reconstruct and inspect the clay liner per the approved plans, prepare as-builts of the pond to confirm the pond was repaired to the original approved plan and restore any disturbed areas from the bottom of the safety shelf and up with topsoil, seed and erosion mat.
 - B. Sediment Removal
 - 1. Special care needs to be taken to not damage the clay liner whenever sediment is removed. Prior to any sediment removal, review the approved plans to understand the elevations of the clay liner. Provide surveying prior to the work to stake the elevations so that the liner is not impacted by the work. Recertify the elevations upon the completion of the work.
 - 2. A sediment clean out cycle of 10 to 15 years is recommended. Sediment removal may be necessary prior to 10 years if there is a substantial amount of land disturbance occurring within the contributory watershed. Annual inspections shall be made to ensure that the design depth of the permanent water pool is maintained.
 - 3. Sediment removed from the ponds shall be hauled to an upland area, spread and stabilized with vegetative material or disposed of in accordance with Chapter NR 528 of the Wisconsin Administrative Code.
 - 4. It is recommended that the sediment be tested to determine if land filling is necessary. Contact the local DNR prior to sediment sampling and testing to

ensure compliance with State standards and regulations.

5. Surveyed depths of the sediment storage area and permanent pool elevations shall be made immediately following the construction of the ponds and recorded on the as-built plans. Annual inspections shall include measure downs to determine sediment elevations in relation to the permanent pool elevation.
6. In the event the clay liner is damaged, dewater the pond per Wisconsin Technical Standard 1061. Reconstruct and inspect the clay liner per the approved plans, prepare an as-built to confirm the pond was repaired correctly and restore any disturbed areas from the bottom of the safety shelf and up with topsoil, seed and erosion mat.

III. RESPONSIBLE PARTY & FINANCIAL FUNDING

- A. The responsible party for the operation, inspection and maintenance of the wet ponds shall be TNG10, LLC, its successors and assigns.
- B. It is recommended that TNG10, LLC establish a perpetual maintenance fund to ensure that the ponds are properly inspected, maintained and repaired.

IV. ADDITIONAL CONSIDERATIONS TO IMPROVE POND WATER QUALITY AND REDUCE MAINTENANCE COSTS.

A. General.

1. Improper disposal of yard wastes will affect the water quality of the wet ponds and may cause clogging of the outlet structure.
2. Improper fertilizer and pesticide application will affect the water quality of the wet ponds and add to algae growth.
3. Excess lawn watering will affect the water quality of the ponds due to increased water runoff that may contain fertilizers and pesticides.

B. Yard Care.

1. It is recommended to consider routine yard care maintenance that is practical and environmentally sound.
2. Refer to U.W. Extension's "Rethinking Yard Care" for additional information.

C. Leaves and Yard Trimmings.

1. It is recommended that leaves and yard trimmings be properly disposed of.
2. Refer to the U.W. Extension's "Managing Leaves and Yard Trimmings" for further information.

D. Lawn and Garden Fertilizers.

1. It is recommended to control fertilizer applications on lawn and gardens so as not to be detrimental to the water quality of the ponds.
2. Refer to the U.W. Extension's "Lawn and Garden Fertilizers" for further information.

E. Lawn and Garden Pesticides.

1. Lawn and garden pesticides may pollute surface and ground water.
2. Refer to the U.W. Extension's "Lawn and Garden Pesticides" for further information.

F. Lawn Watering.

1. Excess lawn watering will wash pollutants into the wet ponds. The Village of Yorkville may have lawn water regulations that must be followed if you opt to water your lawn.
2. Refer to the U.W. Extension's "Lawn Watering" for further information.

G. Lawn Weed Control.

1. Proper turf management will lower the amount of the chemicals that may runoff into the wet ponds during rain events.
2. Refer to the U.W. Extension's "Lawn Weed Control" for further information.

GRASSED SWALES OPERATION AND MAINTENANCE

I. INSPECTION

- A. Inspection should occur seasonally and after major rainfall events.
- B. Inspect for sediment deposition, check dam bypassing, erosion and litter.
- C. Nuisance conditions such as woody plant growth and mosquito breeding areas should also be identified and removed.

II. MAINTENANCE

- A. Mow only to maintain the vegetation at a height greater than the design flow depth.
- B. Maintain the vegetated liner in a vigorous condition.
- C. Depending on the vegetative material, mowing may be infrequent or unnecessary.
- D. Remove woody plants that may invade the swale.
- E. If the swale is damaged by road salts, remove the damaged area and replant with salt tolerant grasses.
- F. Discourage deposition of leaf litter and grass clippings by informing, typically by signage, local residents of the swales purpose