



City of West Allis

Ordinance: O-2017-0005

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number: O-2017-0005

Sponsor(s): Public Works Committee

Final Action:
FEB 07 2017

An Ordinance to Repeal and Recreate Section 11.19 of the Revised Municipal Code for the City of West Allis Relating to Post-Construction Storm Water Management.

The Common Council of the City of West Allis do ordain as follows:

PART I. Section 11.19 of the Revised Municipal Code is hereby repealed and recreated to read:

11.19 POST-CONSTRUCTION STORM WATER MANAGEMENT

(1) AUTHORITY.

This ordinance is adopted by the Common Council under the authority granted by s. 62.234, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 62.23, Wis. Stats., that relate to storm water management regulations.

(2) FINDINGS OF FACT.

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

- (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/or by increasing pollutant loads.
- (d) Reduce the quality of groundwater by increasing pollutant loading.
- (e) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (f) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (g) Undermine floodplain management efforts by increasing the incidence and levels of flooding; and
- (h) Aggravate excessive infiltration and inflow of water into sanitary sewer connections during peak storm events causing the conveyance system to surcharge, overflow or backup into basements.

(3) PURPOSE.

This ordinance integrates federal and state construction post-construction site stormwater water quality standards with duties to reasonably manage the quantity of water run-off for regional flood abatement. This chapter implements the Milwaukee Metropolitan Sewerage District rules on release rates for new development and or redevelopment, to reduce the probability of increased regional floods.

(4) STORMWATER QUALITY AND QUANTITY MANAGEMENT APPLICABILITY.

(a) The water quality management duties apply to property development/redevelopment as required by Wisconsin Department of Natural Resources NR 151, and the water quantity management duties apply to development/redevelopment sites as required by Milwaukee Metropolitan Sewerage District Chapter 13 rules.

(b) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to post-construction sites of any size that, in the opinion of the City Engineer, is likely to result in runoff that exceeds the capacity of the existing drainage facilities or the level of flooding protection in a watercourse, causes undue channel erosion, increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(c) Comity. State agencies should design and incorporate best management practices for surface water quality and stormwater quantity management for new impervious surfaces. The runoff management techniques should be the same as flood abatement plans and techniques utilized by local governments in the watershed. The lead agency preparing an environmental assessment for a federal or state project shall identify the mitigating runoff management techniques to prevent increases in peak flood flows from new impervious areas.

(5) DEFINITIONS.

(a) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to:

- (1) Avoid or minimize sediment or pollutants carried in runoff to waters of the state and/or
- (2) Manage the rate or volume of runoff.

(b) "Business day" means a day the City of West Allis City Hall is routinely and customarily open for business.

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

(d) "Development" means construction of residential, commercial, industrial or institutional land uses and associated roads, including re-development.

(e) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City Engineer by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.

- (f) "Land disturbing construction activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (g) "Maintenance agreement" means a legal document that provides for long-term maintenance of storm water management practices.
- (h) "New development" means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (i) "Redevelopment" means new construction, modification or replacement of older development.
- (j) "Responsible party" means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.
- (k) "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (l) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (m) "Stop work order" means an order issued by the Director of Building Inspection and Neighborhood Services or the City Engineer which requires that all construction activity on the site be stopped.
- (n) "Storm water management plan" means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.
- (o) "Storm water management system plan" is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (p) "Water quality management" means the stormwater standards and duties established under the Clean Water Act, 33 U.S.C. 1251 et. seq., parallel state law regulating the discharge of pollutants, and implementing regulations.
- (q) "Water quantity management" means stormwater duties and practices to abate peaks flood flows during regional storm events pursuant to Chapter 13 of the Milwaukee Metropolitan Sewerage District rules as implemented and enforced by this municipality.

(6) TECHNICAL STANDARDS.

The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of storm water practices needed to meet the requirements of this ordinance:

- (a) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under 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 Director of Building Inspection and Neighborhood Services or the City Engineer has approved the methods.

(c) The rainfall data from the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation - Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013, or more protective data shall be the basis for the analyses required by this ordinance for water quantity analysis.

(7) PERFORMANCE STANDARDS.

(a) RESPONSIBLE PARTY. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.

(b) PLAN. A written storm water quality and quantity management plan in accordance with S.9 shall be developed and implemented for each post-construction site.

(c) REQUIREMENTS. The water quality plan required under sub. (a) shall include the following:

(1) TOTAL SUSPENDED SOLIDS. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as defined by the Wisconsin Department of Natural Resources under chapter NR 151, Wis. Adm. Code.

(2) WATER QUANTITY AND MANAGEMENT OF PEAK RUNOFF.

a. BMPs shall manage the volume, timing, and peak flow rate of runoff to prevent increases in the regional flood and stream bank erosion rates and in accordance with Milwaukee Metropolitan Sewerage District's Chapter 13 rules.

b. These BMPs may be implemented on either a watershed basis or an individual site basis.

c. When implemented on a watershed basis, the BMPs implemented at a particular site shall comply with the findings of the relevant local or regional storm water management plan, rather than subd. 4 and 5.

(d) ALTERNATE REQUIREMENTS. The Director of Building Inspection and Neighborhood Services or the City Engineer may establish storm water management requirements more stringent than those set forth in this section if the City Engineer determines that an added level of protection is needed to protect sensitive resources.

(8) PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

(a) PERMIT REQUIRED. No responsible party may undertake a qualifying land disturbing construction activity without a Stormwater Management Plan approved by the Director of Building Inspection and Neighborhood Services or the City Engineer prior to commencing the proposed activity. A Stormwater Permit shall be issued by the Director of Building Inspection and Neighborhood Services or the City Engineer upon the satisfactory installation of the approved stormwater management system.

(b) PERMIT APPLICATION AND FEES. Any responsible party desiring a permit shall submit to the

Director of Building Inspection and Neighborhood Services or the City Engineer a Stormwater Management Plan as described in S.9. The Fee for the Stormwater Permit shall be determined by the plan review cost to the City.

(c) REVIEW AND APPROVAL OF PERMIT APPLICATION. The Director of Building Inspection and Neighborhood Services or the City Engineer shall review the storm water management plan as follows:

(1) Within 20 business days of the receipt of a complete stormwater management plan, the Director of Building Inspection and Neighborhood Services or the City Engineer shall inform the applicant whether the plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(2) If the stormwater management plan is approved, the Director of Building Inspection and Neighborhood Services or the City Engineer shall grant permission to proceed with obtaining required Building Permits.

(3) If the storm water permit application, plan or maintenance agreement is disapproved, the Director of Building Inspection and Neighborhood Services or the City Engineer shall detail in writing the reasons for disapproval.

(4) The Director of Building Inspection and Neighborhood Services or the City Engineer may request additional information from the applicant. If additional information is requested, the City Engineer shall have the option to restart the review time from the time of receiving the complete plan.

(5) Failure by the Director of Building Inspection and Neighborhood Services or the City Engineer to inform the permit applicant of a decision within 20 business days of a complete submittal shall be deemed an approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) PERMIT REQUIREMENTS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Director of Building Inspection and Neighborhood Services or the City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action to suspend or revoke this permit may be appealed in accordance with S.14.

(1) The responsible party shall design and install all structural or identify non-structural storm water management measures, or both, in accordance with the approved storm water management plan and this permit.

(2) The responsible party shall notify the Director of Building Inspection and Neighborhood Services at least 5 business days before commencing any work in conjunction with the storm water management plan, and within 5 business days upon completion of the storm water management practices. If required as a special condition under sub. (1) the responsible party shall make additional notification according to a schedule set forth by the Director of Building Inspection and Neighborhood Services, so that practice installations can be inspected during construction.

(3) Practice installations required as part of this ordinance shall be certified "as built". Completed storm water management practices must pass a final inspection by the Director of Building Inspection and Neighborhood Services or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Director of Building Inspection and Neighborhood Services or its designee shall notify the responsible party in writing of any changes required in such practices to bring them

into compliance with the conditions of this permit.

(4) The responsible party shall maintain all storm water management practices until the responsibility is transferred to the Common Council, or subsequent private owners as specified in the approved maintenance agreement.

(5) The responsible party authorizes the Director of Building Inspection and Neighborhood Services or the City Engineer to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under S.11.

(6) If so directed by the Director of Building Inspection and Neighborhood Services or the City Engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.

(7) The responsible party shall permit property access to the Director of Building Inspection and Neighborhood Services or the City Engineer or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

(8) Where site development or redevelopment involves changes in direction, increases in the peak rate or the total volume of runoff, the Director of Building Inspection and Neighborhood Services or the City Engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

(e) PERMIT CONDITIONS. Permits issued under this subsection may include reasonable and necessary conditions established by Director of Building Inspection and Neighborhood Services or the City Engineer in addition to the requirements needed to meet the performance standards in S.07 or a financial guarantee as provided for in S.11.

(f) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Director of Building Inspection and Neighborhood Services or the City Engineer notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (d)(3).

(9) STORMWATER MANAGEMENT PLAN.

(a) PLAN REQUIREMENTS. The storm water management plan required under S.8 (b) shall contain at a minimum the following information:

(1) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

(2) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(3) Pre-development site conditions, including:

- a. One or more site maps at a scale of not less than 1 inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 2 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the regional flood (the 1% probability storm event) floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.
- b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

(4) Post-development site conditions, including:

- a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
- b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
- c. One or more site maps at a scale of not less than 1 inch equals 100 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 2 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
- d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- e. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.

(5) A description and installation schedule for the storm water management practices needed to meet the performance standards in S.07.

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

(7) Other information requested in writing by the Director of Building Inspection and Neighborhood Services or the City Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

(8) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.

(10) MAINTENANCE AGREEMENT.

(a) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required under S.8 (c) (1) and (c) (3) for storm water management practices shall be an agreement between the Director of Building Inspection and Neighborhood Services and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.

(b) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by S.9(a)(6):

(1) Identification of the storm water facilities and designation of the drainage area served by the facilities.

(2) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under S.8 (b).

(3) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under S.8 (b).

(4) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).

(5) Authorization for the Director of Building Inspection and Neighborhood Services or the City Engineer, its designee to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

(6) Agreement that the party designated under par. (3), as responsible for long term maintenance of the storm water management practices, shall be notified by the Director of Building Inspection and Neighborhood Services or the City Engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Director of Building Inspection and Neighborhood Services or the City Engineer.

(7) Authorization of the Director of Building Inspection and Neighborhood Services or the City Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under par. (3) does not make the required corrections in the specified time period. The Director of Building Inspection and Neighborhood Services or the City Engineer shall enter the amount due on the tax rolls and

collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(11) FINANCIAL GUARANTEE.

(a) ESTABLISHMENT OF THE GUARANTEE. The Director of Building Inspection and Neighborhood Services or the City Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Director of Building Inspection and Neighborhood Services or the City Engineer. The financial guarantee shall be in an amount determined by the Director of Building Inspection and Neighborhood Services or the City Engineer to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Director of Building Inspection and Neighborhood Services or the City Engineer the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the Director of Building Inspection and Neighborhood Services or the City Engineer that the requirements of this ordinance have not been met.

(b) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:

(1) The Director of Building Inspection and Neighborhood Services or the City Engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the Director of Building Inspection and Neighborhood Services or the City Engineer to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Director of Building Inspection and Neighborhood Services or the City Engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(2) The Director of Building Inspection and Neighborhood Services or the City Engineer shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Director of Building Inspection and Neighborhood Services or the City Engineer at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(12) FEE SCHEDULE.

The fees referred to in other sections of this ordinance shall be established by the Director of Building Inspection and Neighborhood Services or the City Engineer and may from time to time be modified by resolution. A schedule of the fees established by the City Engineer shall be available for review in the City Engineering Department.

(13) ILLICIT DISCHARGE PROHIBITION AND DISCONNECTION.

(a) This section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process.

(b) APPLICABILITY. This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Director of Building Inspection and Neighborhood Services or the City Engineer.

(c) RESPONSIBILITY FOR ADMINISTRATION. The Director of Building Inspection and Neighborhood

Services or the City Engineer shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Director of Building Inspection and Neighborhood Services or the City Engineer may be delegated to persons or entities acting in the beneficial interest of or in the employ of the City.

(d) ILLICIT DISCHARGE PROHIBITIONS

(1) No person shall discharge or cause to be discharged into the municipal storm sewer system or watercourses any materials, including but not limited, to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(2) Exemptions. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- a. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.
- b. Discharges specified in writing by the Director of Building Inspection and Neighborhood Services or the City Engineer as being necessary to protect public health and safety.
- c. Dye testing is an allowable discharge, but requires a verbal notification to the Director of Building Inspection and Neighborhood Services or the City Engineer prior to the time of the test.
- d. The prohibition shall not apply to any non-stormwater discharge permitted under an WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(e) ILLICIT CONNECTION PROHIBITIONS. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(f) SUSPENSION OF MS4 ACCESS.

(1) Suspension due to Illicit Discharges in Emergency Situations. The Director of Building Inspection and Neighborhood Services or the City Engineer may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State of Wisconsin. If the violator fails to comply with a suspension order issued in an emergency, the Director of Building Inspection and Neighborhood Services or the City Engineer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State of Wisconsin, or to minimize danger to persons.

