File #: O-2005-0012, **Version:** 1

An Ordinance to Create 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 created 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 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 chapter 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 development creating more than a de minimis amount of new impervious surface, to reduce the probability of increased regional floods as the metropolitan area approaches full build-out forecast for 2050.

(4) STORMWATER QUALITY AND QUANTITY MANAGEMENT APPLICABILITY.

(a) The water quality management duties apply to property development disturbing one or more acres, and the water quantity management duties apply to development that increases impervious surface by one-half acre or more, unless the site is exempt under paragraph (b) or (c).

(b) A site meeting any one of the following criteria is exempt from stormwater quality requirements.

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

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

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

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

(c) Water quantity management duties do not apply if:

(1) Residential Infill where the lot is five acres or less, the development is exclusively residential, the net increase in the area of impervious surface is less than 20% of the area of the site; and each boundary of the site is contiguous to: sites that contain earlier development served by sanitary sewers, streets, or public water supply when the governmental unit receives the plans for the new development or parkland; or other public land, a utility right-of-way, or a watercourse; or,

(2) Sites where the area of impervious surface after development will be 5% or less of the total area of the site;

(3) Recreational trails if the trail is less than or equal to 10 feet in width and has a continuous pervious buffer at least 5 feet wide on each side, disregarding interruption by streets, driveways, or other impervious surfaces crossing the trail.

(4) 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 that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(d) 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) "Agricultural facilities and practices " has the meaning given in s. 281.16, Wis. Stats.

(b) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.

(c) "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.

(d) "Business day" means a day the office of the City Engineer is routinely and customarily open for business.

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

(f) "City Engineer" means a governmental employee under s.62.234, Wis. Stats., designated by the City Engineer of West Allis to administer this ordinance.

(g) "Combined sewer system" means a system for conveying both sanitary sewage and storm water runoff.

(h) "Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

(i) "Critical time" means the period starting at the time of peak rainfall intensity with a duration equal to the time of concentration of the watershed.

(j) "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

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

(l) "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

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

(n) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.

(o) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

(p) "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.

(q) "Impervious surface" means any pavement or structural element that prevents rain, surface water runoff, or melting snow from infiltrating into the ground below, including, but not limited to, roofs and paved roads, driveways, and parking lots.

(r) "In-fill area" means an undeveloped area of land located within existing development.

(s) "Infiltration" means the entry of precipitation or runoff into or through the soil.

(t) "Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

(u) "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.

(v) "Maintenance agreement" means a legal document that provides for long-term maintenance of storm water management practices.

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

(x) "New development" means development resulting from the conversion of previously undeveloped land or agricultural land uses.

(y) "Off-site" means located outside the property boundary described in the permit application.

(z) "On-site" means located within the property boundary described in the permit application.

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

(bb) "Outstanding resource waters" means waters listed in s. NR 102.10, Wis. Adm. Code.

(cc) "Percent fines" means the percentage of a given sample of soil, which passes through a # 200 sieve.

(dd) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(ee) "Permit" means a written authorization made by the City Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(ff) "Permit administration fee" means a sum of money paid to the City Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(gg) "Pervious surface" means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

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

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

(jj) "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.

(kk) "Pre-development condition" means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

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

(mm) "Public right of way" means any road, alley, street, parking lot, sidewalk, plaza, mall, or pathway owned by or dedicated to a governmental unit.

(nn) Recreational trail" means a path that is:

(1) distinctly set apart from a roadway, street, or sidewalk;

(2) designed for activities such as jogging, walking, hiking, bird-watching, bicycle riding, roller skating, or similar

recreational activities not involving the use of motorized vehicles; and

(3) not a sidewalk according to sec. 340.01(58), Wis. Stats.

(oo) "Regional flood" means the peak flow and peak elevation of water with a one percent (1%) probability of occurring during any one year, considering rainfall time and intensity patterns, rainfall duration, area distribution, antecedent moisture, and snow melt. The common misnomer, "100 year flood or floodplain" implies a temporal element rather than a one in 100 random probability of the event.

(pp) "Redevelopment" means new construction, modification or replacement of older development.

(qq) "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.

(rr) "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.

(ss) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(1) Is designed or used for collecting water or conveying runoff;

(2) Is not part of a combined sewer system;

(3) Is not draining to a storm water treatment device or system; and

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

(tt) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

(uu) "Stop work order" means an order issued by the City Engineer which requires that all construction activity on the site be stopped.

(vv) "Storm water management plan" means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has under gone final stabilization following completion of the construction activity.

(ww) "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.

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

(yy) "Time of concentration" means the time period for the furthest runoff from the outlet of a watershed to contribute to flow at the watershed outlet.

(zz) "Top of the channel" means an edge, or point on the landscape, landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.

(aaa) "TR-55" means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

(bbb) "Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable to all of Wisconsin and

represents the most intense storm pattern.

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

(ddd) "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.

(eee) "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 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 City Engineer has approved the methods.

(c) The most recent rainfall data available from the Southeastern Wisconsin Regional Planning Commission 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 follows:

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

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

c. For in-fill development under 5 acres that occurs within 10 years after the effective date of this ordinance, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.

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

e. Notwithstanding subds. a. to d., if the design cannot achieve the applicable total suspended solids reduction

specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(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.

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. For the 50%/2-year, 24-hour design storm, BMPs shall be designed to either: maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions or achieve a maximum runoff release rate of 0.15 cubic feet per second per acre, whichever is more stringent. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meanings of "hydrologic soil group" and "runoff curve number" are as determined in TR-55.

e. For the 1%/100-year, 24-hour design storm, BMPs shall be designed to achieve a runoff release rate that is less than or equal to either:

(1) 0.5 cubic feet per second per acre or

(2) A rate determined for the individual site that distributes runoff over the critical time sufficient to comply with subd. 1.

(3) INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subd. e through f.

a. For residential developments one of the following shall be met:

1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 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.

2. Infiltrate 25% of the post-development runoff from the 2-year, 24-hour design storm with a Type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. 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. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:

1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% 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 project site is required as an effective infiltration area.

2. Infiltrate 10% of the runoff from the 2-year, 24-hour design storm with a Type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

c. Pre-development condition shall be the same as in par. (2).

d. 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. f. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

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

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

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

3. Fueling and vehicle maintenance areas.

4. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 5.e. does not prohibit infiltration of roof runoff.

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

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

7. 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.

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

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

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

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

3. Redevelopment post-construction sites.

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

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

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

g. Groundwater Limitations.

1. 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.

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

(4) PROTECTIVE AREAS.

a. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

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

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

3. For lakes, 50 feet.

4. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The rotective 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.

5. 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.

6. 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.

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

b. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. d.

c. The follwing requirements shall be met:

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

2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

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

d. This paragraph does not apply to:

1. Redevelopment post-construction sites.

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

3. Structures that cross or access surface waters such as boat landings, bridges and culverts.

4. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.

5. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

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

(6) SWALE TREATMENT FOR TRANSPORTATION FACILITIES.

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

1. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

2. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second based on a 2-year, 24-hour design storm. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

b. Exemptions. The City Engineer may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:

1. An outstanding resource water.

2. An exceptional resource water.

3. Waters listed in s. 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.

Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(d) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in managing runoff:

(1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(2) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(3) BMPs for water quantity management shall utilize the following techniques, in order of preference:

a. Preservation of the natural features of development sites, including natural storage and infiltration characteristics;

b. Preservation of existing natural streams, channels, and drainage ways;

c. Minimization of new impervious surfaces;

d. Conveyance of storm water in open vegetated channels;

e. Construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites; and

f. Construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.

(e) LOCATION AND REGIONAL TREATMENT OPTION.

(1) The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system within the same watershed.

(2) Runoff within a non-navigable drainage way that flows into a BMP, such as a wet pond, is not required to meet water quality performance standards unless designed to provide treatment.

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

(4) The City Engineer may approve off-site management measures provided that all of the following conditions are met:

a. The City Engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of West Allis and that contains management requirements consistent with the purpose and intent of this ordinance.

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

1. The facility is in place.

2. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.

3. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(5) Where a regional treatment option exists such that the City Engineer exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the City Engineer. In determining the fee for post-construction runoff, the City Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(f) ALTERNATE REQUIREMENTS. The 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.

(g) Credit for Removal of Impervious Surfaces.

(1) Same Site Credit. The City Engineer may use the removal of pavement, covered structures or other impervious surfaces at the same property to calculate the net post construction impervious acreage and corresponding water quantity management duties. Credit may equal, but not be larger than the acreage of impervious surfaces removed when runoff release rates and detention are the best management practices utilized at the site. When best management practices with a higher order of preference are utilized in-lieu-of detention, equivalent credit may be granted as determined by the City Engineer with the concurrence of the MMSD. Credit for reducing impervious surfaces at a site,

not utilized by the development on the site, belongs to the City Engineer and may be banked for allocation to other development within the watershed under subsection (b).

(2) Dispersed Site in Same Watershed Credit. The City Engineer may bank the removal of impervious surfaces, which individually must be one half acre or more, within the same watershed, where the volume, timing and peak flow of runoff will be distributed over the critical time sufficient to assure the level of protection provided by MMSD flood abatement projects will not be reduced. The City Engineer may allocate banked credit to promote a policy of smart growth. The total acreage banked or allocated, or both, shall be reported, by watershed or sub-watershed, annually to the MMSD for concurrence.

(8) PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

(a) PERMIT REQUIRED. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the City Engineer prior to commencing the proposed activity.

(b) PERMIT APPLICATION AND FEES. Any responsible party desiring a permit shall submit to the City Engineer a permit application made on a form provided by the City Engineer for that purpose.

(1) Unless specifically excepted, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.

(2) Unless specifically excepted, a permit application shall include all appropriate DNR and/or MMSD permits/approvals.

(3) The storm water management plan shall be prepared to meet the requirements of SS.07 and 09, the maintenance agreement shall be prepared to meet the requirements of S.10, the financial guarantee shall meet the requirements of S.11, and fees shall be those established by the Common Council as set forth in S.12.

(c) REVIEW AND APPROVAL OF PERMIT APPLICATION. The City Engineer shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee, as follows:

(1) Within 20 business days of the receipt of a complete permit application, including all items as required by sub. (b), the City Engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(2) If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in-lieu-of storm water management practices is made, the City Engineer shall issue the permit.

(3) If the storm water permit application, plan or maintenance agreement is disapproved, the City Engineer shall detail in writing the reasons for disapproval.

(4) The City Engineer may request additional information from the applicant. If additional information is submitted, the City Engineer shall have 5 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(5) Failure by the City Engineer to inform the permit applicant of a decision within 5 business days of a required 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 City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the City Engineer 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 City Engineer 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. (f), the responsible party shall make additional notification according to a schedule set forth by the City Engineer 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 City Engineer or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The City Engineer or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

(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 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 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 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 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.

(f) PERMIT CONDITIONS. Permits issued under this subsection may include reasonable and necessary conditions established by 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.

(g) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date 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) (1) and (b) (3) 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) Cost estimates for the construction, operation, and maintenance of each storm water management practice.

(8) Other information requested in writing by the City Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

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

(b) ALTERNATE REQUIREMENTS. The City Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under S.07(e).

(10) MAINTENANCE AGREEMENT.

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

(b) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by 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) (1) and (b) (3).

(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) (1) and (b) (3).

(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 City Engineer, its designee and the Milwaukee Metropolitan Sewerage District 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 City Engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the City Engineer.

(7) Authorization of 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 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 City Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the City Engineer. The financial guarantee shall be in an amount determined by 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 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 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 City Engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the City Engineer to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. 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 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 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 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 a City Engineer.

(c) RESPONSIBILITY FOR ADMINISTRATION. The City Engineer shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon 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), fire fighting activities, and any other water source not containing pollutants.

b. Discharges specified in writing by 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 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 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 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.

(2) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City Engineer will notify a violator of the proposed termination of its MS4 access. The violator may petition the City Engineer for a reconsideration and hearing.

(g) MONITORING OF DISCHARGES.

(1) The City Engineer shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

(2) Facility operators shall allow the City Engineer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a WPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) Unreasonable delays in allowing the City Engineer access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a WPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City Engineer reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(4) If the City Engineer has been refuse access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City Engineer may seek issuance of a search warrant from any court of competent jurisdiction.

(h) REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structuraland non-structural BMPs. Further, any person responsible for a property or premise, may be required to implement, at said person's expense, additional structural and non-srcual BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(i) WATERCOURSE PROTECTION. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(j) NOTIFICATION OF SPILLS. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the State of Wisconsin said person, shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City Engineer in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Engineer within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be

retained for at least three years.

(14) ENFORCEMENT.

(a) Any land disturbing construction activity, post-construction runoff, or illicit discharge initiated after the effective date of this ordinance by any person subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.

(b) The City Engineer shall notify the responsible party of any non-complying land disturbing construction activity, post-construction runoff, or illicit discharge. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, or additional enforcement action that may be taken. Any technique that effectively provides actual and verifiable notice may be used.

(c) If the violations are likely to result in damage to properties, public facilities, or waters of the state, the City Engineer may enter the land and take corrective actions necessary to prevent such damage. The costs incurred by the City Engineer plus interest and legal costs shall be paid by the responsible party.

(d) If the City Engineer determines that any person is in violation of this ordinance or a stormwater permit, the City Engineer may issue a notice of violation, a stop work order, a cease and desist order, or revoke the permit, or refer the noncompliance to the city attorney for civil enforcement, penalties, injunctive orders or other appropriate relief.

(e) Every violation of this ordinance is a public nuisance. Any person who violates this ordinance shall be subject to a forfeiture of not less than $10 dollars or more than $10,000 dollars per offense, together with the costs of prosecution. Each day each violation continues shall constitute a separate offense.

(f) When the City Engineer determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices, has failed to comply with schedules in a storm water management plan, or has failed to comply with the terms of the illicit discharge suspension, the City Engineer or a party designated by the City Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City Engineer shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to S.11 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(15) APPEALS.

(a) BOARD OF APPEALS. The Board of Appeals, created pursuant to section 12.15 of the Municipal Code pursuant to s. 62.23(7)(e), Wis. Stats, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer in administering stormwater quality or quantity duties arising from development. The Board may authorize variances that are not contrary to the public interest, and where owing to special conditions unique to the property, a literal enforcement would be an unnecessary hardship.

(b) WHO MAY APPEAL. Appeals to the Board of Appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of West Allis affected by any decision of the City Engineer.

PART II. All ordinances or parts of ordinances contravening the provisions of this ordinance shall be repealed.

PART III. This ordinance shall take effect and be in force from and after its passage and publication.

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