SECTION 1: **AMENDMENT** "24.13.040 Stormwater Management" of the Wauwatosa Municipal Code is hereby *amended* as follows:

A M E N D M E N T

24.13.040 Stormwater Management

A. Authority.
    1. This section is adopted by the common council under the authority granted by § 62.234, Wis. Stats. This section supersedes all provisions of an ordinance previously enacted under § 62.23, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in § 62.234, Wis. Stats., § 62.23, Wis. Stats., applies to this section and to any amendments to this section.
    2. The provisions of this section are deemed not to limit any other lawful regulatory powers of the same governing body.
    3. The common council hereby designates the engineering services division to administer and enforce the provisions of this section.
    4. The requirements of this section do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
        a. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under §§ 281.16 and 283.33, Wis. Stats.
        b. Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under § NR 151.004, Wis. Adm. Code.

B. Findings of Fact. The common council finds that uncontrolled 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. Due to capacity limitations of the stormwater and combined sewer systems in the City of Wauwatosa, reduction of stormwater runoff quantity must be of the highest high priority in the policies of the City of Wauwatosa. Specifically, uncontrolled runoff can:
    1. Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature;
    2. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
    3. Alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
    4. Reduce the quality of groundwater by increasing pollutant loading;
    5. Threaten public health, safety, property and general welfare by overtaxing

storm sewers, drainage ways, and other minor drainage facilities;

6. Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes;
7. Undermine floodplain management efforts by increasing the incidence and levels of flooding; and
8. 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.

C. Purpose. This chapter integrates federal and state construction post-construction site stormwater 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.

D. Applicability.

1. The water quality management requirements of this chapter apply to property development disturbing one or more acres.
2. The water quantity management requirements of this chapter apply to development that increases impervious surface by one-half or more acres.
3. A site meeting any one of the following criteria is exempt from stormwater quality requirements.
    a. A post-construction site with less than ten percent directly connected impervious area (DCIA) based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.
    b. Nonpoint discharges from agricultural facilities and practices.
    c. Nonpoint discharges from silviculture activities.
    d. Routine maintenance for project sites under five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
    e. 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.
4. Water quantity management requirements do not apply if:
    a. The development is exclusively residential, the net increase in the area of impervious surface is less than twenty percent 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 at the time the city receives the plans for the new development or parkland; or other public land, a utility right-of-way, or a watercourse; or,
    b. Sites where the area of post-construction impervious surface will be five percent or less of the total area of the site;
    c. Recreational trails if the trail is less than or equal to ten feet in width

and has a continuous pervious buffer at least five feet wide on each side, disregarding interruption by streets, driveways, or other impervious surfaces crossing the trail.

d. Notwithstanding the applicability requirements in paragraph (a), this chapter applies to a post-construction site 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.

5. County, state and federal agencies undertaking projects within the City of Wauwatosa, in the event that such project is not otherwise subject to the provisions of this chapter, 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 elsewhere in the watershed. The lead agency preparing an environmental assessment for a federal or state project shall identify and inform the city of the mitigating runoff management techniques to prevent increases in peak flood flows from new impervious areas.
6. Persons exempted from the provision of this chapter shall, upon request, provide such reasons in writing to the engineering services division. In such submissions or exemption requests, maps and calculations of changes in impervious surface area over the entire site shall be included.

E. Definitions.

1. "Adequate sod, or self-sustaining vegetative cover" means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.
2. "Agricultural facilities and practices" has the meaning given in § 281.16(1), Wis. Stats.
3. "Atlas 14" means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.
4. "Average annual rainfall" means a typical calendar year of precipitation as determined by the department for users of models such as SLAMM, P8, or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.
5. "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to:
    a. Avoid or minimize sediment or pollutants carried in runoff to waters of the state; or
    b. Manage the rate or volume of runoff.
6. "Cease and desist order" means a court-issued order to halt land disturbing

construction activity that is being conducted without the required permit or in violation of a permit issued by the city engineer.

7. "Connected imperviousness" means an impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.
8. "Critical time" means the period starting at the time of peak rainfall intensity with duration equal to the time of concentration of the watershed.
9. "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
10. "Development" means construction of residential, commercial, industrial or institutional land uses and associated roads, including re-development.
11. "Direct conduits to groundwater" means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.
12. "City engineer" means the city engineer for the City of Wauwatosa or a designee of the city engineer.
13. "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.
14. "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
15. "Exceptional resource waters" means waters listed in Section NR 102.11, Wis. Adm. Code.
16. "Existing development" means development in existence on October 1, 2004, or development for which a notice of intent to apply for a storm water permit in accordance with subch. III of ch. NR 216 was received by the Wisconsin Department of Natural Resources or the department of commerce on or before October 1, 2004.
17. "Filtering layer" means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.
18. "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 seventy percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
19. "Impaired water" means a waterbody impaired in whole or in part and listed by the department pursuant to 33 USC 1313 (d)(1)(A) and 40 CFR 130.7 , for not meeting a water quality standard, including a water quality standard for a specific substance or the waterbody's designated use.
20. "Impervious surface" means an area that releases as runoff all or a large

portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, gravel or paved parking lots, and streets are examples of surfaces that typically are impervious.

21. "In-fill area" means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur. "In-fill" does not include any undeveloped area that was part of a larger new development for which a notice of intent to apply for a storm water permit in accordance with subch. III of ch. NR 216 was required to be submitted after October 1, 2004, to the Wisconsin Department of Natural Resources or the department of commerce.
22. "Infiltration" means the entry of precipitation or runoff into or through the soil.
23. "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.
24. "Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
25. "Land disturbing construction activity" means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative 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.
26. "Maintenance agreement" means a legal document that provides for long-term maintenance of stormwater management practices.
27. "MEP" or "maximum extent practicable" applies when a person who is subject to a performance standard specified in this section demonstrates that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, an applicant shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.
28. "New development" means development resulting from the conversion of previously undeveloped or agricultural land uses.
29. "Off-site" means located outside the property boundary described in the permit application.
30. "On-site" means located within the property boundary described in the permit

application.

31. "Ordinary high-water mark" has the meaning given in Section NR 115.03(6), Wis. Adm. Code.
32. "Outstanding resource waters" means waters listed in Section NR 102.10, Wis. Adm. Code.
33. "Percent fines" means the percentage of a given sample of soil, which passes through a number two hundred sieve.
34. "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
35. "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.
36. "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.
37. "Pollutant" has the meaning given in Section 283.01(13), Wisconsin Statutes.
38. "Pollution" has the meaning given in Section 281.01(10), Wisconsin Statutes.
39. "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
40. "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.
41. "Preventive action limit" has the meaning given in Section NR 140.05(17), Wis. Adm. Code.
42. "Recreational trail" means a path that is:
    a. Distinctly set apart from a roadway, street, or sidewalk;
    b. 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
    c. Not a sidewalk according to Section 340.01(58), Wisconsin Statutes.
43. "Regional flood" means the peak flow and peak elevation of water with a one percent probability of occurring during any one year, considering rainfall time and intensity patterns, rainfall duration, area distribution, antecedent moisture, and snow melt.
44. "Redevelopment" means new construction, modification or replacement of older development.
45. "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 stormwater BMPs.
46. "Runoff" means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
47. "Separate Storm Sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following

criteria:

a. Is designed or used for collecting water or conveying runoff.

b. Is not part of a combined sewer system.

c. Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

48. "Silviculture activity" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
49. "Site" means the entire parcel included in the legal description of the land on which the land disturbing construction activity occurred.
50. "Stop work order" means an order issued by the city engineer which requires that all construction activity on the site be stopped.
51. "Stormwater management plan" means a comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has under gone final stabilization following completion of the construction activity.
52. "Stormwater 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.
53. "Technical standard" means a document that specifies design, predicted performance and operation and specifications for a material, device or method.
54. "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.
55. "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 twelve percent continually for at least fifty feet. If the slope of the land is twelve percent or less continually for the initial fifty feet, landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.
56. "Total maximum daily load" or "TMDL" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.
57. "TP" means total phosphorus.
58. "TP-40" means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.
59. "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.
60. "Transportation Facility" means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under § 85.095(1)(b), Wis. Stats. "Transportation facility" does not include building sites for the

construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to § 281.33, Wis. Stats.

61. "TSS" means total suspended solids.
62. "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.
63. "Water quality management" means the stormwater standards and duties established under the Clean Water Act, 33 U.S.C. 1251 et seq., parallel Wisconsin laws regulating the discharge of pollutants, and implementing regulations.
64. "Water quantity management" means stormwater duties and practices to abate peak flood flows during regional storm events pursuant to Chapter 13 of the Milwaukee Metropolitan Sewerage District rules as implemented and enforced by this municipality.
65. "Waters of the State" include those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

F. Technical Standards. The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of stormwater practices needed to meet the requirements of this chapter:
    1. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
    2. Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the city engineer.
    3. 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 chapter.

G. Performance Standards.
    1. Responsible Party. The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.
    2. Plan. A written stormwater quality and quantity management plan in accordance with Section 24.13.040I. shall be developed and implemented for each post-construction site.
    3. Maintenance of Effort. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction and report total phosphorus reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this section, whichever is more stringent.

4. Requirements. The stormwater quality and quantity management plan shall include the following:
    a. Total Suspended Solids and Total Phosphorus. BMPs shall be designed, installed and maintained to control total suspended solids (TSS) and report total phosphorus (TP) carried in runoff from the post-construction site as follows:
        (1) BMPs shall be designed in accordance with Table 1. or to the maximum extent practicable as provided in subdivision 2. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Table 13.040-1. TSS Reduction Standards and TP Reporting		
Development Type	**TSS Reduction**	TP Reduction
New Development	80 percent	Report associated reduction
In-fill development	80 percent	Report associated reduction
Redevelopment	40 percent of load from parking areas and roads	Report associated reduction

        (2) Maximum Extent Practicable. If the design cannot meet a total suspended solids reduction performance standard of Table 13.040-1, the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.
        (3) Off-Site Drainage. When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

    b. Water Quantity and Management of Peak Runoff.
        (1) BMPs shall be utilized to manage the volume, timing, and peak flow rate of runoff to prevent increases in the regional flood and stream bank erosion rates.
        (2) These BMPs shall be implemented on an individual site basis.
        (3) For the one-year, twenty-four-hour and two-year, twenty-

four-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.

(4) Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 13.040-2 shall be used. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, the engineering services division may allow the use of TP-40 precipitation depths and the Type II distribution.

Table 13.040-2. qc> Maximum Pre-Development Runoff Curve Numbers

Runoff Curve Number	**Hydrologic Soil Group**			
	A	**B**	**C**	**D**
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

(5) For the one percent/one-hundred-year, twenty-four-hour design storm, BMPs shall be designed to achieve a runoff release rate that is less than or equal to either:

(A) 0.5 cubic feet per second per acre; or

(B) A rate determined for the individual site that distributes runoff over the critical time sufficient to comply with the regulations of this section.

(6) This subsection of the section does not apply to any of the following:

(A) A post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.

(B) Except as provided under section 16.13.040.G.3, a

redevelopment post-construction site.

(C) An in-fill development area less than 5 acres.

c. 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 paragraphs (5) through (7), below:

(1) For developments with up to forty percent connected imperviousness, one of the following shall be met:

(A) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.

(B) Infiltrate twenty-five percent of the post-development runoff from the two-year/twenty-four-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 one percent of the project site is required as an effective infiltration area.

(2) For developments with more than 40% and up to 80% connected imperviousness one of the following shall be met:

(A) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least seventy-five percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.

(B) Infiltrate ten percent of the runoff from the two-year/twenty-four-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 two percent of the project site is required as an effective infiltration area.

(3) For developments with more than 80% connected

imperviousness one of the following shall be met:

(A) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least sixty percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.

(B) Infiltrate ten percent of the runoff from the two-year/twenty-four-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 two percent of the project site is required as an effective infiltration area.

(4) Pre-development condition shall be the same as in paragraph (B).

(5) 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 paragraph (7), below. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

(6) The following areas must meet more stringent standards otherwise applicable under federal or state law:

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

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

(C) Fueling and vehicle maintenance areas.

(D) Areas within 1,000 feet upgradient or within 100 feet downgradient of karst features.

(E) 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 subparagraph (6)(E) does not prohibit

infiltration of roof runoff.

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

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

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

(I) 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 three-foot soil layer with twenty percent fines or greater; or at least a five-foot soil layer with ten percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This shall not be construed to prohibit infiltration of roof runoff.

(7) The following are not required to meet the requirements of this paragraph:

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

(B) Parking areas and access roads less than five thousand square feet for commercial and industrial development.

(C) Redevelopment post-construction sites.

(D) Infiltration areas during periods when the soil on the site is frozen.

(E) Roads in commercial, industrial and institutional land uses, and arterial residential roads.

(F) Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty

clay, or clay.

(8) 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 Chapter 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. The requirements of this paragraph notwithstanding, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

d. Protective Areas.

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

(A) For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in Section NR 103.04, seventy-five feet.

(B) For perennial and intermittent streams identified on a United States geological survey seven and one-half-minute series topographic map, or a county soil survey map, whichever is more current, fifty feet.

(C) For lakes, fifty feet.

(D) For wetlands not subject to part (E) or (F), 50 feet.

(E) For highly susceptible wetlands, seventy five feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, conifer swamps, shrub swamps, lowland hardwood swamps, ephemeral ponds, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Section NR 103.08(1m). This paragraph does not apply to wetlands that have

been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

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

(G) In preceding paragraphs (1)(A), (1)(D) and (1)(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 Section NR 103.03.

(H) For concentrated flow channels with drainage areas greater than one hundred thirty acres, ten feet.

(2) This paragraph applies to post-construction sites located within a protective area, except those areas expressly exempted.

(3) The following requirements shall be met:

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

(B) Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of seventy percent 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. Nonvegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

(C) Best management practices such as filter strips,

swales, or wet detention basins, designed to control pollutants from non-point sources may be located in the protective area.

(4) This paragraph does not apply to:

(A) Redevelopment post-construction sites.

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

(C) Structures constructed in accordance with Section 59.692(1v), Wisconsin Statutes.

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

e. 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.

f. Swale Treatment for Transportation Facilities.

(1) Except as provided in paragraph (2) below, transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

(A) Be vegetated. However, where appropriate, nonvegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

(B) Carry runoff through a swale for two hundred feet or more in length that is designed with a flow velocity no greater than one and one-half feet per second based on a two-year, twenty-four-hour design storm. If a swale of two hundred feet in length cannot be designed with a flow velocity of one and one-half feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

(2) 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 more than two thousand five hundred vehicles and where the initial surface water of the state that the runoff directly enters is any of the following:

(A) An outstanding resource water.

(B) An exceptional resource water.

(C) Waters listed in Section 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.

(D) Waters where targeted performance standards are developed under Section NR 151.004, Wis. Adm. Code, to meet water quality standards.

g. Addressing Wildlife Attractants for Aviation Safety. Wet detention ponds are designed and constructed to maintain a permanent pool of water and are an attractant to Canada Geese. Preferred storm water control practices include the following design features to minimize the potential to attract Canada Geese:

(1) No above ground permanent standing water or pool areas.

(2) No more than 48 hours of above ground water ponding after the cessation of a rain event.

(3) Turf establishment in and around the practice using high-endophyte infected tall fescue varieties of grasses.

(4) Alternative storm water control practices that can typically be designed to meet the above listed criteria include biofiltration basins or swales, infiltration basins or trenches, permeable pavement, vegetated swales or filter strips, and underground detention or treatment structures.

(5) If a wet detention pond must be used, the following design features should be considered:

(A) Create uniform shorelines with no irregular edges.

(B) Use long, narrow pond configurations with steep side slopes that are hard armored (e.g., rip rap).

(C) If vegetation establishment on the pond side slopes is necessary, specify high-endophyte infected tall fescue varieties of grasses. This vegetation should extend at least 15 feet upslope from the normal water level and be allowed to grow as tall (greater than 30 inches) and thick as possible.

(D) To minimize or eliminate open water areas, use shallow permanent pool depths (2 feet or less) to allow the establishment of emergent wetland vegetation.

(E) If open water areas are necessary, specify an overhead, wire grid system and/or plastic bird balls as physical barriers to the surface water.

5. General Considerations for On-Site and Off-Site Stormwater Management Measures. The following considerations shall be observed in managing runoff:

a. 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.

b. Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

c. BMPs for water quantity management shall utilize the following techniques, in order of preference:

(1) Preservation of the natural features of development sites, including natural storage and infiltration characteristics;

(2) Preservation of existing natural streams, channels, and drainage ways;

(3) Minimization of new impervious surfaces;

(4) Conveyance of stormwater in open vegetated channels;

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

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

6. Location and Regional Treatment Option.

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

b. 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.

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

d. The city engineer may approve off-site management measures provided that all of the following conditions are met:

(1) The city engineer determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the City of Wauwatosa and that contains management requirements consistent with the purpose and intent of this chapter.

(2) The off-site facility meets all of the following conditions:

(A) The facility is in place.

(B) The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this chapter.

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

e. Where a regional treatment option exists such that the city engineer

exempts the applicant from all or part of the minimum on-site stormwater 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.

7. Alternate Requirements. The city engineer may establish stormwater 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. Credit for Removal of Impervious Surfaces.
    a. 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 subparagraph 8.b, below.
    b. 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.

H. Permitting Requirements, Procedures and Fees.
    1. 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.
    2. 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.
        a. Unless expressly exempt, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a nonrefundable permit fee.

b. The stormwater management plan shall be prepared to meet the requirements of Section 24.13.040G. and Section 24.13.040I., the maintenance agreement shall be prepared to meet the requirements of Section 24.13.040J., the financial guarantee shall meet the requirements of Section 24.13.040K., and fees shall be set forth in the consolidated fee schedule adopted annually by the common council.

3. Review and Approval of Permit Application. In addition to the review and approval required by other governmental bodies which may have jurisdiction over this activity, the city engineer shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee, as follows:
    a. Within fifteen business days of the receipt of a complete permit application, the city engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this chapter.
    b. If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the city engineer shall issue the permit.
    c. If the stormwater permit application, plan or maintenance agreement is disapproved, the city engineer shall detail in writing the reasons for disapproval.
    d. The city engineer may request additional information from the applicant. If additional information is submitted, the city engineer shall have fifteen additional 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.
4. Permit Requirements. All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The 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 Section 24.13.040N.
    a. Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
    b. The responsible party shall design and install all structural or identify nonstructural stormwater management measures, or both, in accordance with the approved stormwater management plan and this permit.
    c. The responsible party shall notify the city engineer at least five business days before commencing any work in conjunction with the five days upon completion of the stormwater management practices. If

required as a special condition under subsection 5 (below) 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.

d. Practice installations required as part of this section shall be certified "as built". Completed stormwater management practices must pass a final inspection by the city engineer or its designee to determine if they are in accordance with the approved stormwater 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.

e. The responsible party shall maintain all stormwater management practices until the responsibility is transferred to any subsequent owners as specified in the approved maintenance agreement.

f. The responsible party authorizes the city engineer to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Subchapter VII of Chapter 66, Wisconsin Statutes, or to charging such costs against the financial guarantee posted under Section 24.13.040K.

g. 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 stormwater management plan.

h. The responsible party shall permit property access to the city engineer for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.

i. 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 guarantees concerning the prevention of endangerment to property or public safety.

5. 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 Section 24.13.040G. or a financial guarantee as provided for in Section 24.13.040K.

6. 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 stormwater management practices have passed the required final inspection.

I. Stormwater Management Plan.

1. Plan Requirements. The stormwater management plan required under Section 24.13.040I. shall contain at a minimum the following information:

a. Name, address, and telephone number for the following or their designees: landowner; developer; project engineer or appropriate licensed professional for practice design and certification; person(s) responsible for installation of stormwater management practices; and person(s) responsible for maintenance of stormwater management practices prior to the transfer, if any, of maintenance responsibility to another party.
b. 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.
c. Pre-development site conditions, including:
    (1) One or more site maps at a scale of not less than one inch equals two hundred 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 two 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 stormwater 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 one percent probability storm event) floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to Section NR 811.16, Wis. Adm. Code.

    (2) 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).
d. Post-development site conditions, including:
    (1) 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.
    (2) Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.
    (3) One or more site maps at a scale of not less than one-inch

equals one hundred (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 two (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 stormwater conveyance sections; location and type of all stormwater 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.

(4) 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). The plan shall include a table summarizing the drainage area, pre-project and post-project loadings and removal efficiencies for each treatment practice. If the project includes off-site drainage areas, those areas shall be incorporated into the modeling to determine treatment practice effectiveness but shall be listed separately in the table. A development cannot take credit for off-site areas and reductions without a written agreement from the off-site landowner(s).

(5) Results of investigations of soils and groundwater required for the placement and design of stormwater management measures. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.

e. A description and installation schedule for the stormwater management practices needed to meet the performance standards in Section 24.13.040G.

f. A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule, which plan shall be acknowledged

in writing by the owner of the property which is the subject of such plan.

g. Cost estimates for the construction, operation, and maintenance of each stormwater management practice.

h. Plan submittal shall include a digital version of the WinSLAMM *.mdb file(s) and a digital representation of post-construction drainage area(s) tributary to each individual treatment practice in ESRI GIS Shapefile or Geodatabase format, Autodesk AutoCAD (*.dwg), or other format approved by the City.

i. Other information requested in writing by the city engineer to determine compliance of the proposed stormwater management measures with the provisions of this chapter.

j. All site investigations, plans, designs, computations, and drawings shall be certified by an appropriate licensed professional to be prepared in accordance with accepted engineering practice and requirements of this section.

2. Alternate Requirements. The city engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Section 24.13.040G.

J. Maintenance Agreement.

1. Required. The maintenance agreement required under Section 24.13.040I.f. for stormwater management practices shall be an agreement between the city engineer and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement or a memorandum thereof shall be filed with the Milwaukee County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.

2. Required Provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Section 24.13.040I.1.f.

a. Identification of the stormwater facilities and designation of the drainage area served by the facilities shown on an exhibit.

b. A schedule for regular inspection and maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under Section 24.13.040I.

c. Identification of the party(s) responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under Section 24.13.040I.

d. Requirement that the responsible party(s) shall maintain stormwater management practices in accordance with the schedule included in paragraph b, above.

e. An inspection form to be used by responsible party(s) while conducting routine inspections at the frequency and schedule defined

in the maintenance agreement.

f. Requirement that inspection records and documentation of maintenance activities is reported to the city engineer annually.

g. Authorization for the city engineer, its designee and the Milwaukee Metropolitan Sewerage District to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

h. Agreement that the party designated under paragraph c. (above), as responsible for long term maintenance of the stormwater 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.

i. Authorization of the city engineer to perform the corrected actions identified in the inspection report if the responsible party designated under paragraph c. (above) 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 Subchapter VII of Chapter 66, Wisconsin Statutes.

K. Financial Guarantee.

1. Establishment. The city engineer may require the submittal of a financial guarantee, in the form of a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantee acceptable to the city engineer and approved by the city attorney. 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 stormwater 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 stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the city engineer that the requirements of this chapter have not been met.

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

   a. 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 an appropriate licensed professional.

   b. The city engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

c. The city engineer shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater 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.

L. Fee Schedule. The fees referred to in other sections of this chapter shall be set forth in the consolidated fee schedule adopted annually by the common council.

M. Enforcement.

1. Any land disturbing construction activity or post-construction runoff initiated after the original effective date of this chapter by any person subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this chapter.
2. The city engineer shall notify the responsible party of any noncomplying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, or additional enforcement action which may be taken. Any technique that effectively provides actual and verifiable notice may be used.
3. Upon receipt of written notification from the city engineer under subsection (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the city engineer in the notice.
4. 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.
5. If the city engineer determines that any person is in violation of this chapter or a stormwater permit, the director 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.
6. Every violation of this chapter is a public nuisance. Any person who violates this chapter shall be subject to a forfeiture of not less than ten dollars or more than two thousand dollars per offense, together with the costs of prosecution. Each day each violation continues shall constitute a separate offense.
7. Compliance with the provisions of this section may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctional proceedings.
8. When the city engineer determines that the holder of a permit issued pursuant to this chapter has failed to follow practices, or has failed to comply with schedules in a stormwater management plan, 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 Section 24.13.040K. 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.

N. Appeals. The Wauwatosa Common Council hereby elects that provisions of this chapter are not governed by the procedures of Chapter 68, Wisconsin Statutes, and provides for appeals as follows:
    1. Board of Zoning Appeals. The board of zoning appeals 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. 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.
    2. Who May Appeal. Appeals to the board of zoning appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Wauwatosa affected by any decision of the city engineer.

O. Illicit Connections and Discharges.
    1. The following definitions shall be applicable in this subsection:
        a. "Illicit connection" means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this chapter.

        b. "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
        c. "Storm drain system" means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs, and other drainage structures.
    2. Illicit Connections and Discharges Prohibited.
        a. No person shall discharge, spill or dump substances or materials which are not entirely composed stormwater into receiving bodies of water or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.
        b. The construction, use, maintenance or continued existence of illicit

connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this chapter, regardless of whether the connections was permissible under law or practice applicable or prevailing at the time of connection.

c. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the stormwater:
    (1) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.
    (2) Discharges resulting from firefighting activities.
    (3) Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.
d. Whenever the City of Wauwatosa finds a person has violated a prohibition or failed to meet a requirement of this section, the City of Wauwatosa may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
    (1) The elimination of illicit connections or discharges;
    (2) That violating discharges, practices, or operations shall cease and desist;
    (3) The abatement or remediation of stormwater pollution or contaminated hazards and the restoration of any affected property;
    (4) In the event the person fails to eliminate the illicit connects or discharge, fails to cease and desist in discharge, practices or operations in violation of this section or fails to abate or remediate the stormwater pollution or contamination hazards, that person may be subject to a forfeiture of not less than fifty dollars nor more than five hundred dollars for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.