

CHAPTER 14

STORM WATER MANAGEMENT

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ARTICLE I: GENERAL PROVISIONS**SECTION 14-1 DEFINITIONS**

- (A) It is the intention of this Chapter to include within any reference to state statute, administrative code, policy, or procedure in effect at the time of adoption of this section together with any applicable prior revisions and all future recodifications, renumberings, and amendments unless otherwise expressly provided in such references.
- (B) It is the intention of this Chapter that any act required to be performed by or any act prohibited by any state statute, administrative code, policy or procedure incorporated herein by reference is an act required to be performed or is an act prohibited by this Chapter.
- (C) Unless the context of this Chapter specifically indicates otherwise, the meaning of terms used herein shall be as follows:
- (1) "Administering authority" as designated by the Common Council to administer and enforce the provisions of this chapter is the Department of Public Works or its designee.
 - (2) "Agricultural activity area" means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area
 - (3) "Agricultural production area" means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.
 - (4) "Average annual rainfall" means a typical calendar year of precipitation as determined by the DNR for users of models such as SLAMM, P8, or equivalent methodology. For purposes of this chapter, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969 as defined by the DNR Runoff Management Program.
 - (5) "Best Management Practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize, pollutants carried in runoff to waters of the state, reduce peak flows, and / or reduce runoff volume.
 - (6) "Board of Public Works" has the meaning as defined in Chapter 2 of the municipal code.
 - (7) "Business day" means a day the office of the administering authority is routinely and customarily open for business.
 - (8) "Common plan of development or sale" means a land development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, planned developments, condominium plats, and other land developments.

- (9) "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.
- (10) "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development.
- (11) "Contaminated storm water". Storm water that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in NR 216.
- (12) "DATCP" means the Wisconsin Department of Agriculture, Trade and Consumer Protection.
- (13) "DNR" means The Wisconsin Department of Natural Resources.
- (14) "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The 24-hour design storm rainfall depths are: 1-year, 1.96 inches; 2-year, 2.4 inches; 10-year, 3.56 inches; and 100-year, 6.35 inches. All design storms are to utilize a Type II rainfall distribution.
- (15) "Development" means residential, commercial, industrial, institutional, or other land uses and associated roads.
- (16) "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.
- (17) "Discharge" means as defined in Wisconsin Statute 283, when used without qualification includes a discharge of any pollutant.
- (18) "Discharge of pollutant or discharge of pollutants" means as defined in Wisconsin Statute 283, means any addition of any pollutant to the waters of this state from any point source.
- (19) "Division of land" means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through successive partition within a 5 year period.
- (20) "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.
- (21) "Equivalent Runoff Unit" (ERU) is the impervious area for the average single family residential lot.
- (22) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (23) "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (24) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.

- (25) "Extraterritorial" means the unincorporated area within 3 miles of the corporate limits of the City of Oshkosh.
- (26) "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 DNR or the department of commerce on or before October 1, 2004.
- (27) "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 administering authority.
- (28) "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 percent of the cover for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures as determined by the administering authority.
- (29) "Governing body" means the City of Oshkosh Common Council.
- (30) "Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (31) "Highway" has the meaning given in s. 340.01 (22), Wis. Stats.
- (32) "Highway reconditioning" has the meaning given in s. 84.013 (1)(b), Wis. Stats.
- (33) "Highway reconstruction" has the meaning given in s. 84.013(1)(c), Wis. Stats.
- (34) "Highway resurfacing" has the meaning given in s. 84.013(1)(d), Wis. Stats.
- (35) "Illicit Connections." An illicit connection is defined as either of the following:
- (a) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 including any connections to the MS4 from indoor drains, sinks, or other fixtures, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the administering authority; or,
 - (b) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the administering authority.
- (36) "Illicit discharge" means any discharge to an MS4 that is not composed entirely of storm water except
- (a) Discharges authorized by a WPDES permit or
 - (b) Other discharges not requiring a WPDES permit such as landscape irrigation, individual residential car washing, fire fighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering,

flows from riparian habitats and wetlands, and similar discharges.

- (37) "Impaired water" means a waterbody impaired in whole or in part and listed by the DNR 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.
- (38) "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, parking lots and streets are examples of areas that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.
- (39) "Industrial Activity" means activities subject to WPDES Industrial Permits per NR 216 and Wisconsin Statute 283.
- (40) "In-fill area" means an undeveloped area of land located within an existing urban 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 DNR or the department of commerce.
- (41) "Infiltration" means the entry of precipitation or runoff into or through the soil.
- (42) "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.
- (43) "Karst feature" means an area or surficial geologic feature subject to carbonate 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.
- (44) "Land disturbing construction activity" (or "disturbance") 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 activities include, but are not limited to: clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.
- (45) "Landowner" means any person holding fee title, an easement or other interest in real property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.
- (46) "Maintenance agreement" means a legal document that provides for long-term maintenance of storm water management facilities and best management practices.
- (47) "MEP or maximum extent practicable" means the highest level of performance that is achievable, but is not equivalent to a performance standard identified in this chapter.
- (48) "Minor reconstruction" means reconstruction that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed

widening, and that does not include replacement of a vegetated drainage system with a non-vegetated drainage system except where necessary to convey runoff under a highway or private road or driveway.

- (49) "Municipality" means any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, storm water or other wastes.
- (50) "Municipal Separate Storm Sewer System (MS4)" as defined in Wisconsin Administrative Code NR 216 (effective August 1, 2004), means a system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm sewers, which meets all the following criteria:
- (a) Owned or operated by the City of Oshkosh.
 - (b) Designed or used for collecting or conveying storm water.
 - (c) Which is not a combined sewer conveying both sanitary and storm water.
 - (d) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- (51) "Navigable waters" and "navigable waterway" has the meaning given in s. 30.01 (4m), Stats.
- (52) "New development" means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (53) "Non-Storm Water Discharge" means any discharge to the MS4 that is not composed entirely of storm water.
- (54) "NRCS" means the Natural Resources Conservation Service of the U.S. Department of Agriculture.
- (55) "Off-site" means located outside the property boundary described in the permit application.
- (56) "On-site" means located within the property boundary described in the permit application.
- (57) "Ordinary high-water mark" has the meaning given in s. NR 115.03(6), Wis. Adm. Code.
- (58) "Outfall" means the point at which storm water is discharged to waters of the state or to a storm sewer or to a component of an MS4 system that is not owned or operated by the City of Oshkosh.
- (59) "Outstanding resource waters" means waters listed in s. NR 102.10, Wis. Adm. Code.
- (60) "Owner" means any person holding fee title, an easement or other interest in real property.

- (61) "Percent fines" means the percentage of a given sample of soil, which passes through a # 200 sieve.
- (62) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (63) "Permit" means a written authorization made by the administering authority to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (64) "Permit administration fee" means a sum of money paid to the administering authority by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (65) "Person" means an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.
- (66) "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.
- (67) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- (68) "Pollution" has the meaning given in s. 283.01 (14), Wis. Stats.
- (69) "Pollution prevention" means taking measures to eliminate or reduce pollution.
- (70) "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (71) "Post-development" means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.
- (72) "Pre-development" 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.
- (73) "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (74) "Preventive action limit" has the meaning given in s. NR 140.05(17), Wis. Adm. Code.
- (75) "Redevelopment" means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development condition is classified as redevelopment. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (76) "Responsible party" means any entity holding fee title to the real property and/or other person contracted or obligated by other agreement to meet the performance standards of this chapter or to implement and maintain erosion and sediment control, or post-construction storm water BMPs. All responsible parties shall be jointly responsible for any act or failure to

act by one responsible party. The owner of the property is ultimately responsible to ensure that all fees are submitted.

- (77) "Routine maintenance" means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the impervious surface's granular base is not exposed. The disturbance shall be classified as redevelopment if the granular base associated with the pre-development impervious surface is exposed or if the soil located beneath the impervious surface is exposed. For purposes of this chapter, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (78) "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.
- (79) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (80) "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.
 - d) Discharges directly or indirectly to waters of the state.
- (81) "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.
- (82) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is identified in the permit application.
- (83) "Storm Water" means runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (84) "Storm Water Management Plan" means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.
- (85) "Storm Water Pollution Prevention Plan (SWPPP)" means a document which describes the BMPs and activities identifying sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- (86) "Storm water management system plan" means a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

- (87) “Storm Water Reference Guide” refers to the most recent version of the reference document on file in the Department of Public Works Office (Room 301 of City Hall). The Storm Water Reference Guide contains guidance to designers and developers to assist them in complying with the requirements of this Chapter.
- (88) “Storm Water Utility Appeals Board” has the meaning as described in Chapter 2 of the municipal code.
- (89) “Targeted performance standard” means a performance standard which applies to a specific area, where additional practices beyond statewide performance standards, are necessary to meet water quality standards.
- (90) “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.
- (91) “Technical standard” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (92) “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.
- (93) “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, which is incorporated by reference for this chapter.
- (94) “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 s. 85.095 (1) (b), 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 DNR pursuant to s. 281.33, Stats.
- (95) “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” which is incorporated by reference for this chapter. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- (96) “USGS”. means the United States Geological Survey.
- (97) “Wastewater” means any water or other liquid, other than uncontaminated storm water, discharged from a site.
- (98) “Watercourse” means a natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Winnebago County, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.
- (99) “Waters of the state” means as defined in Wisconsin Statute 283, means those portions of

Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

- (100) "Wisconsin Pollutant Discharge Elimination System (WPDES)" means Storm Water Discharge Permit. A Wisconsin pollutant discharge elimination system permit issued pursuant to Wisconsin Statute 283.

SECTION 14-2 AUTHORITY

- (A) This chapter is adopted under the authority granted by 62.234, Wis. Stats.
- (B) The provisions of this chapter shall not be interpreted to limit any other lawful regulatory powers of the same governing body.
- (C) The requirements of this chapter do not pre-empt more stringent requirements that may be imposed by any of the following:
- (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.
 - (3) Wisconsin Department Safety and Professional Services administrative rules, permits or approvals.
 - (4) Wisconsin state statutes
 - (5) Federal laws

ARTICLE II: STORM WATER UTILITY**SECTION 14-3 CREATION**

There is hereby established a Storm Water Utility in the City of Oshkosh. The operation of the Storm Water Utility shall be under the supervision of the Director of Public Works. The city, acting through the Storm Water Utility, may without limitation due to enumeration, acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the city to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, detention basins, streets, roads, ditches and such other facilities as will support a storm water management system.

SECTION 14-4 RATES AND CHARGES

- (A) The basis for computation of the charge for storm water services to all lots and parcels of land within the city is established under this section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer classifications may be made by further resolution of the Common Council. All charges established pursuant to this Section shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the City Clerk.
- (B) Charges shall be imposed to recover all or a portion of the costs of the Storm Water Utility. Such charges, which shall be established pursuant to further resolution of the City of Oshkosh Common Council, may include the following components:
- (1) **Base charge.** A base charge may be imposed on all property in the city. The base charge is established in recognition of the fact that all properties in the city receive services from the storm water management activities of the city and that all property contributes to some degree to the storm water discharge that must be managed by the city. The base charge shall be assessed to collect the administrative costs of the Storm Water Utility and may include capital, operating and maintenance costs of the Storm Water Utility which are not recovered by other means. The base charge may be based on the size of a lot or parcel of land.
 - (2) **Equivalent runoff unit charge (ERU).** An equivalent runoff unit charge may be imposed on all property that has an impervious area. The ERU charge shall be assessed based upon the impervious area as reasonably determined by the city for a typical residential unit of property. Other units of property will be charged multiples of the ERU based on the impervious area of the property.
 - (3) **Special charge (SC).** The special charge which may be imposed on property that is in an area specially benefited by a particular storm water management facility. This charge will be developed to reflect the benefits in a particular area that may not be appropriate to allocate to property throughout the city, and will be calculated on an ERU basis.
- (C) The property owner shall be responsible for completing the Storm Water Utility service application form any time a building permit is issued, exclusive of those issued to existing single family residences, or when a site plan review is conducted. The form shall be provided by the Inspections Services Division with each application for a building permit (exclusive of building permits for single family residences) or application for site plan review. Failure to submit a completed Storm Water Utility service application form or providing false information on said form shall result in denial of both

the building permit and Storm Water Utility service applications and imposition of the penalty as provided in this Section. In addition to any other penalties, the owner shall also be liable for storm water charges, under this Section, for the improvement from the date construction of the improvement began.

- (D) The Common Council may establish rates and classifications by further resolution as will be likely to provide a reasonable and fair distribution of the costs of the Storm Water Utility. In the event the owner and non-owner users of a particular property are not the same, the liability for the charges attributable to that property shall be joint and several.

(1) Adjustments

- (a) Requests for correction of the ERUs, credit applications, or the adjustment factors allocated to a parcel of property shall be submitted to the administering authority. The Director of Public Works (Director) shall have the authority to develop and administer the procedures and review criteria and standards for such requests.

- (i) Requests for adjustment to the user fees shall be governed by Section 14 - 37.

- (b) Any customer may, submit a request at any time.

- (i) Requests shall be in writing and set for in detail the grounds upon which relief is sought.

- (c) The customer may be required, at his, her or its own expense, to provide supplemental information to the administering authority, including but not limited to survey data approved by a registered land surveyor (R.P.L.S.) and engineering reports approved by a professional engineer (P.E.) Failure to provide such information within the time limits established by the Director, as may be reasonably extended, may result in denial of the request.

- (i) Once a completed request and all required information is fully submitted, the Director shall have thirty (30) calendar days within which to render a written decision. Concurrent payment of any charges for such requests is not required as a condition precedent to this request for review.

- (ii) The Director's decision shall be mailed to the address provided on the request and service shall be complete upon mailing.

- (iii) Appeals from the Director's decisions shall be governed by Section 14-37, except that no concurrent payment of any fees is required. All appeals must be in writing and shall specify the grounds for challenging the Director's decision. The appeal must specifically address the Director's conclusions and shall not merely repeat the bases for the initial request. All appeals shall be submitted within thirty (30) calendar days after the date of mailing the Director's decision. Failure to timely and properly appeal shall deprive the City Manager of jurisdiction to hear the appeal.

- (E) The charges established will be billed to the utility customer at the same time and in the same manner as the sanitary sewer or water bill. Unless otherwise provided elsewhere, such charges shall not be payable in installments. Bills for Storm Water Utility charges shall be mailed to the recipient designated by the owner of the property to which the bill relates, provided that such mailing shall not relieve the owner of any property from liability for the charges in the event payment is not

made.

- (F) A late payment charge as established by further resolution of the Common Council will be added to bills not paid within 20 days of issuance.
- (G) All storm water service charges shall be taxed and collected, and shall be a lien upon the property served in the same manner as water service charges are taxed and collected under the provisions of Sec. 66.0809, Wis. Stats.

SECTION 14-5 ALTERNATIVE METHOD TO COLLECT STORM WATER CHARGES

In addition to any other method for collection of the charges established under this Article, or subsequent resolution, may be, and are hereby authorized to be levied and imposed on property as a special charge pursuant to Sec. 66.0627, Wis. Stats. The mailing of the bill for Storm Water Utility charges to a property owner shall serve as notice to the property owner that failure to pay the charges when due may result in the charges being imposed pursuant to the authority of Sec. 66.0627, Wis. Stats. The procedures contained in Sec. 66.0627, Wis. Stats., shall govern such notice and further collection procedures.

SECTION 14-6 BUDGET EXCESS REVENUES

The Storm Water Utility finances shall be accounted for in a separate Storm Water Utility Fund by the City. The Finance Director or designee shall prepare an annual budget, which is to include all operation and maintenance costs, debt service and other costs related to the operation of the Storm Water Utility. The budget is subject to approval by the Common Council. The costs shall be spread over the rate classifications as determined by the Council. Any excess of revenues over expenditures in a year will be retained by the Fund for subsequent years' needs.

ARTICLE III: CONSTRUCTION SITE EROSION CONTROL

SECTION 14-7 FINDING OF FACT

The Common Council finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state from the City of Oshkosh.

SECTION 14-8 PURPOSE

It is the purpose of this article to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity in the City of Oshkosh to waters of the state.

SECTION 14-9 APPLICABILITY AND JURISDICTION

- (A) Applicability.

- (1) This article applies to the following land disturbing construction activities except as provided under subsection (A)(2):
 - (a) A construction site which has 4,000 square feet or greater of land disturbing construction activity.
 - (b) A construction site which has 100 cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.
 - (c) Land disturbing activities involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
 - (d) Land disturbing activities involving the laying, repairing, replacing or enlarging of an underground pipe, wire, cable or facility, subject to any alternative plan and permit requirements for such activities set forth in the City of Oshkosh *Storm Water Reference Guide*.
 - (e) Land disturbing activities within waters of the state, wetlands and protective areas. Wetlands shall be delineated in accordance with s. NR103.08(1m).
 - (f) Routine ditch maintenance, subject to any alternative plan and permit requirements for such activities set forth in the City of *Oshkosh Storm Water Reference Guide*.
 - (g) Notwithstanding the previously listed applicability requirements, construction sites of any size that, in the opinion of the administering authority, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety are required to prepare a plan and obtain a permit.
- (2) Land disturbing activities meeting the following are not required to prepare a plan and obtain a permit. These sites shall meet the performance standards in Section 14-11.
 - (a) A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
- (3) This article does not apply to the following:
 - (a) Land disturbing construction activity that includes the construction of 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance. These construction sites are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125 Wis. Adm. Code.
 - (b) Nonpoint discharges from agricultural activity areas.
- (4) Notwithstanding the applicability requirements in subsection (A)(1), this article applies to construction sites of any size that, in the opinion of the administering authority, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(B) Jurisdiction.

- (1) This article applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the City of Oshkosh including those lands identified under any current or future boundary agreements and lands that are included as part of a delayed attachment.

(C) Exclusions.

- (1) This article is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

SECTION 14-10 TECHNICAL STANDARDS

(A) Design Criteria, Standards and Specifications.

- (1) All BMPs required to comply with this article shall meet the design criteria, standards and specifications based on any of the following:
- (a) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under Chapter NR 151, Wis. Adm. Code.
 - (b) Technical standards and other guidance identified within the *City of Oshkosh Storm Water Reference Guide*.
 - (c) For this article, average annual basis is calculated using the appropriate average annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.
 - (d) Soil loss prediction tools such as Revised Universal Soil Loss Equation 2 (RUSLE2) that estimate the sediment load leaving the construction site under varying land and management conditions.

(B) Other Standards

- (1) Other technical standards not identified or developed in subsection (A) may be used provided that the methods have been approved by the administering authority.

SECTION 14-11 PERFORMANCE STANDARDS FOR NON-PERMITTED SITES

- (A) Responsible Party. The responsible party shall develop an erosion and sediment control plan in accordance with Section 14-14 that incorporates the requirements of this section. The responsible party shall comply with all aspects of the approved erosion and sediment control plan. For sites not required to obtain a permit under Subsection 14-9(A)(2), the property owner or other responsible party shall still comply with all requirements of this section.

- (B) Requirements. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

- (1) The deposition of soil from being tracked onto streets by vehicles.
 - (2) The discharge of sediment from disturbed areas into storm water inlets.
 - (3) The discharge of sediment from disturbed areas into adjacent waters of the state.
 - (4) The discharge of sediment from drainage ways that flow off the site.
 - (5) The discharge of sediment by dewatering activities.
 - (6) The discharge of sediment eroding from soil stockpiles.
 - (7) The transport of chemicals, cement and other building compounds and materials on the construction site during the construction period into waters of the state or the separate storm sewer. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.
 - (8) The discharge of sediment from erosive flows at outlets and in downstream channels.
 - (9) The transport by runoff into waters of the State or separate storm sewer of untreated wash water from vehicle and wheel washing.
- (C) Location. The BMPs used to comply with this section shall be located so that treatment occurs before runoff leaves the site or enters a separate storm sewer system, any drainage channel or waters of the state.
- (D) Implementation. The BMPs used to comply with this section shall be implemented as follows:
- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
 - (2) Erosion and sediment control practices shall be maintained until final stabilization.
 - (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding 14 calendar days.
 - (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

SECTION 14-12 PERFORMANCE STANDARDS FOR PERMITTED SITES

- (A) Responsible Party. The responsible party shall develop an erosion and sediment control plan in accordance with Section 14-14 that incorporates the requirements of this section. The responsible party shall comply with all aspects of the approved erosion and sediment control plan.
- (B) Plan. A written erosion and sediment control plan shall be developed in accordance with Section 14-

14 and implemented for each construction site.

- (C) Requirements. The erosion and sediment control plan required under subsection (B) shall include the following:
- (1) Erosion and sediment control practices shall be used to prevent or reduce all of the following:
 - (a) The deposition of soil from being tracked onto streets by vehicles.
 - (b) The discharge of sediment from disturbed areas into storm water inlets.
 - (c) The discharge of sediment from disturbed areas into adjacent waters of the state.
 - (d) The discharge of sediment from drainage ways that flow off the site.
 - (e) The discharge of sediment by dewatering activities.
 - (f) The discharge of sediment eroding from soil stockpiles.
 - (g) The discharge of sediment from erosive flows at outlets and in downstream channels.
 - (h) The transport by runoff into waters of the state or the separate storm sewer of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
 - (i) The transport by runoff into waters of the state or the separate storm sewer of untreated wash water from vehicle and wheel washing.
 - (2) Construction sites shall implement BMP's that, by design, discharge no more than 5 tons per acre per year, of the sediment load in runoff from initial grading to final stabilization. The administering authority may establish requirements less stringent for sites with less than one acre of disturbance.
 - (3) Erosion and Sedimentation BMPs may be combined to meet the requirements of this paragraph. Credit toward meeting the sediment reduction may be given for limiting the duration or area, or both, of land disturbing activity, or other appropriate mechanism. The method of calculating the percent reduction in sediment shall be a method approved by the administering authority.
 - (4) Notwithstanding subsection (C)(1), if BMPs cannot be designed and implemented to meet these requirements, the plan shall include a written and site-specific explanation as to why the requirements are not attainable and the sediment load shall be reduced to the maximum extent practicable.
 - (5) Preventative measures. The plan shall incorporate all of the following:
 - (a) Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
 - (b) Minimization of soil compaction and preservation of topsoil.
 - (c) Minimization of land disturbing construction activity on slopes of 20% or more.

- (d) Development of spill prevention and response procedures.
- (6) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.
- (D) Location. The BMPs used to comply with this section shall be located so that treatment occurs prior to runoff leaving the site or entering the municipal separate storm system, any drainage channel or entering waters of the state.
- (E) Implementation. The BMPs used to comply with this section shall be implemented as follows:
 - (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with plan developed under subsection (B).
 - (2) Erosion and sediment control practices shall be maintained until final stabilization.
 - (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding 14 calendar days.
 - (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

SECTION 14-13 PERMITTING REQUIREMENTS, PROCEDURES, AND FEES

- (A) Permit Required. No responsible party may commence a land disturbing construction activity subject to this article without receiving prior approval of an erosion and sediment control plan for the site when a permit from the administering authority is required.
- (B) Permit Application and Fees. At least one responsible party desiring to undertake a land disturbing construction activity subject to this article shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Section 14-14 and shall pay an application fee to the administering authority. By submitting an application, the applicant is authorizing the administering authority to enter the site to obtain information required for the review of the erosion and sediment control plan. The owner of the property is ultimately responsible to ensure that all permit application fees are submitted.
- (C) Review and Approval of Permit Application. The administering authority shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. Permit application reviews will be coordinated through the Site Plan Review Committee. The following approval procedure shall be used:
 - (1) Within 15 business days of the receipt of a complete permit application, as required by subsection (B), the administering authority shall inform the applicant whether the application and plan are approved, disapproved, or if more information is required, based on the requirements of this article.
 - (2) If the permit application and plan are approved, the administering authority shall issue the

permit.

- (3) If the permit application or plan is disapproved, the administering authority shall state in writing the reasons for disapproval.
 - (4) The administering authority may request additional information from the applicant. If additional information is submitted, the administering authority shall have 15 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
 - (5) Failure by the administering authority to inform the permit applicant of a decision within 15 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued, unless the administering authority notifies the applicant that more time is required.
- (B) **Financial Guarantee.** As a condition of approval and issuance of the permit, the administering authority may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee execution of the approved erosion control plan and any permit conditions.
- (C) **Permit Requirements.** All permits shall require the owner and responsible party to:
- (1) Notify the administering authority within 2 business days of commencing any land disturbing construction activity.
 - (2) Notify the administering authority of completion of any BMPs within 5 business days after their installation.
 - (3) Obtain permission in writing from the administering authority prior to any modification pursuant to Section 14-14 of the erosion and sediment control plan.
 - (4) Install all BMPs as identified in the approved erosion and sediment control plan.
 - (5) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (6) Repair, within 24 hours, any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in weekly inspection reports.
 - (7) Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater within a 24 hour period. Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification that repair or replacement is needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following: date, time and location of the construction site inspection; the name of individual who performed the inspection; an assessment of the condition of erosion and sediment controls; a description of any erosion/sediment control BMP implementation, and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site.
 - (8) Allow the administering authority to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan.

- (9) Keep a copy of the erosion and sediment control plan, storm water management plan, amendments, weekly inspection reports, and permit, at the construction site until permit coverage is terminated. Copies of all documents shall be provided to the administering authority upon request.
 - (10) Authorize the administering authority to perform any work or operations necessary to bring erosion and sediment control measures into conformance with the approved erosion and sediment control plan, and consents to a special assessment or charge against the property as authorized under Stat. 66.0627.
 - (11) Violations of any permit condition shall be a violation of this Chapter and subject to the enforcement actions and penalties detailed in Article VI.
 - (12) Post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (D) Permit Conditions. Permits issued under this section may include conditions established by administering authority in addition to the requirements set forth in subsection (E), where needed to assure compliance with the performance standards in Section 14 - 12.
- (E) Permit Duration. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The administering authority may extend the period one or more times for up to an additional 180 days. The administering authority may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this article.
- (F) Maintenance. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this article until the site has undergone final stabilization.
- (G) Alternate Requirements. The administering authority may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

SECTION 14-14 EROSION AND SEDIMENT CONTROL PLAN AND AMENDMENTS

- (A) Plan Requirements. The erosion and sediment control plan required under Section 14-12 (B) shall comply with the *City of Oshkosh Storm Water Reference Guide* and contain at a minimum the following information:
- (1) Name, address, and telephone number of the responsible party.
 - (2) A legal description of the property proposed to be developed.
 - (3) A site map with property lines, disturbed limits, and drainage patterns.
 - (4) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities.
 - (5) Performance standards applicable to site.
 - (6) Proposed best management practices.
 - (7) Erosion control plan narrative and anticipated construction schedule.

- (B) Amendments. The applicant shall amend the plan if any of the following occur:
- (1) There is a change in design, construction, operation or maintenance at the site which has not otherwise been addressed in the plan and has the reasonable potential for the discharge of pollutants to waters of the state, any drainageway or the separate storm sewer system.
 - (2) The actions required by the plan fail to adequately reduce the impacts of pollutants carried by construction site runoff.
 - (3) The administering authority notifies the applicant of changes needed in the plan.
- (C) Alternate Requirements. The administering authority may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

SECTION 14-15 FEE SCHEDULE

The fees referred to in other sections of this article shall be established by the governing body and may from time to time be modified by resolution. A schedule of the fees established by the governing body shall be available for review in the administering authority office, Room 301 City Hall, 215 Church Avenue, Oshkosh, WI.

SECTION 14-16 INSPECTION

Whenever land disturbing construction activities are being carried out, the administering authority may enter the land for purposes of carrying out the requirements of this article. If the administering authority is refused access, they may pursue a special inspection warrant pursuant to the provisions of ss. 66.0119 Wis. Stats.

ARTICLE IV: POST-CONSTRUCTION STORM WATER MANAGEMENT

SECTION 14-17 FINDINGS OF FACT

- (A) 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:
- (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.

- (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.

SECTION 14-18 PURPOSE AND INTENT

- (A) Purpose. The general purpose of this article is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare, and the aquatic environment. Specific purposes are to:
 - (1) Further the maintenance of safe and healthful conditions.
 - (2) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 - (3) Control exceeding the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (B) Intent. It is the intent of the Common Council that this article regulates post-construction storm water discharges to the City of Oshkosh MS4 and waters of the state.

SECTION 14-19 APPLICABILITY AND JURISDICTION

- (A) Applicability.
 - (1) Where not otherwise limited by law, this article applies to all post-construction sites, unless the site is otherwise exempt under subsection (A)(2).
 - (a) For sites with less than 20,000 square feet of impervious surface and that disturb less than one acre of land the numeric performance standards of Section 14-21(D)(1), (2) and (3) do not apply.
 - (2) A post-construction site that meets any of the criteria in this paragraph is exempt from the requirements of this article.
 - (a) 1 and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance.
 - (b) Non-point discharges from agricultural activity areas.
 - (c) Non-point discharges from silvicultural activities
 - (d) Mill and crush operations.

- (3) Notwithstanding the applicability requirements in subsection (A)(1), this article applies to post-construction sites of any size that, in the opinion of the administering authority, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (B) Jurisdiction.
- (1) This article applies to post construction sites within the boundaries and jurisdiction of the City of Oshkosh, including those lands identified under any current or future boundary agreements and lands that are included as part of a delayed attachment.
- (C) Exclusions.
- (1) This article is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

SECTION 14-20 TECHNICAL STANDARDS

- (A) The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling / vehicle maintenance components of storm water practices needed to meet the performance standards of this article:
- (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) Technical standards and guidance identified within the *City of Oshkosh Storm Water Reference Guide*.
 - (3) 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 administering authority.

SECTION 14-21 PERFORMANCE STANDARDS

- (A) Responsible Party. The responsible party shall comply with all aspects of the approved storm water management plan.
- (B) Plan. A written storm water management plan in accordance with Section 14-23 shall be developed and implemented for each post-construction site.
- (C) Maintenance of Effort. For redevelopment sites where the redevelopment will be replacing older development that was subject to any previous post-construction performance standards, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this article whichever are more stringent.
- (D) Requirements. The storm water management plan shall meet the following minimum requirements:

- (1) Total Suspended Solids (TSS). BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site. BMPs shall be designed in accordance with Table 1, or to the maximum extent practicable as provided in subsection (D)(1)(b). The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Development Type	TSS Reduction
New Development	80 percent
In-fill	80 percent
Redevelopment	40 percent of load from parking areas and roads

- (a) Calculation of Annual TSS Pollutant Loads. The calculation shall be conducted using the model WinSLAMM, P8, or an equivalent methodology approved by the administering authority using references listed under Section 14-20.
 - (b) Maximum Extent Practicable. If the design cannot meet a total suspended solids reduction performance standard of paragraph (1), Table 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. All claims of “maximum extent practicable” require concurrence from the administering authority.
 - (c) Redevelopment. Except as provided in subsection (C), the redevelopment total suspended solids reductions standard shown in Table 1, applies to redevelopment.
 - (d) Off-Site Drainage. When designing BMPs, runoff draining to a 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.
- (2) Peak Discharge - BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site. BMPs shall be designed and installed in accordance with Table 2. The design shall be based on the design storms in Table 2, as compared to the site under pre-development hydrologic conditions. Maximum pre-development curve numbers are shown in Table 3.

Development Type	Peak Flow Reduction
New Development	The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the 1-year, 2-year, and 10-year, 24-hour design storms. In addition the post-development peak discharge rate for the 100-year 24-hour design storm shall not exceed the pre-development peak discharge rate from the 10-year, 24-hour design storm.

In-fill > 5 acres	The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the 1-year, 2-year, and 10-year, 24-hour design storms. In addition the post-development peak discharge rate for the 100-year 24-hour design storm shall not exceed the pre-development peak discharge rate from the 10-year, 24-hour design storm.
In-fill < 5 acres	The post-development peak discharge rate for the 10-year 24-hour design storm and the 100-year 24-hour design storm shall not exceed the pre-development peak discharge rate from the 10-year, 24-hour design storm.
Redevelopment	No peak flow control requirements, except as noted under subsection (C)

- (a) TR-55 methodology shall be used for peak discharge calculations, unless the administering authority approves an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. Predevelopment curve numbers shall be based on actual site conditions. Table 3 represents the maximum allowed curve number for each groundcover classification.

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

- (b) An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site and shall:
 - (i) Consist of non-erosive discharge velocities and reasonable downstream conveyance.
 - (ii) Discharge to the City of Oshkosh MS4, waters of the state, or appropriate drainage easement.
 - (iii) Contain a means to keep floatable debris within the storm water BMP or BMPs.
- (c) Runoff in excess of the 100-year 24-hour design storm must be safely passed downstream from the proposed development site to a public right-of-way, drainage easement, or waters of the state.
- (d) Exemption. This section does not apply to the following:
 - (i) Riparian Properties: Peak flow control requirements of this section, are not required of properties where the runoff discharges directly to Lake Butte de Morts, the Fox River, or Lake Winnebago without passing through any other privately or publicly owned storm water conveyance system structure.
 - (ii) Redevelopment as noted in Table 2.

- (3) Runoff Volume (Infiltration) - BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, or to the maximum extent practicable.
 - (a) Infiltration Performance Standards as described in Table 4 shall be met or to the maximum extent practicable as provided in subsection (D)(3)(h). Refer to the *City of Oshkosh Storm Water Reference Guide* for examples of land conditions meeting the connected imperviousness categories.

Table 4: Infiltration Performance Standards		
Level of Connected Imperviousness	Infiltration Performance Standard	Maximum % of the Post-Construction Site Required as Effective Infiltration area
Low Imperviousness (up to 40% connected imperviousness)	90% of the pre-development infiltration volume	1%
Moderate Imperviousness (more than 40% and up to 80% connected imperviousness)	75% of the pre-development infiltration volume	2%
High Imperviousness (more than 80% connected imperviousness)	60% of the pre-development infiltration volume	2%

- (b) Calculation of Annual Runoff Volumes. The calculation for pre-development and post-development conditions shall use the model WinSLAMM, P8, or an equivalent methodology approved by the administering authority using references listed under Section 14-20.
- (c) Pre-Development Conditions Runoff Curve Numbers for the infiltration calculation shall be based on actual site conditions. Table 3 represents the maximum allowed Runoff Curve Number for each groundcover classification.
- (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. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- (e) Source Area Prohibitions. Infiltration of runoff from the following source areas are prohibited and do not qualify as contributing to meeting the infiltration requirements of this paragraph:
 - (i) Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, and parking. Runoff from rooftops may be infiltrated with the concurrence of the administering authority.

- (ii) Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code. Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.
 - (iii) Fueling and vehicle maintenance areas. Runoff from fueling and vehicle maintenance area rooftops may be infiltrated with the concurrence of the administering authority.
- (f) Location Prohibitions. Infiltration practices may not be located in the following areas.
- (i) Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
 - (ii) Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within the separation distances listed in NR 812.08 for any private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, (including multi-family residential), industrial and institutional land uses or regional devices for one- and two-family residential development.
 - (iii) 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.
- (g) Separation distances. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 5. Notwithstanding the requirements of this paragraph, applicable requirements for injection wells classified under ch. NR 815 shall be followed.

Table 5. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Parking Lots and Roads within Industrial, Commercial, and Institutional land uses	5 feet or more	Filtering Layer
Arterial Roads within Residential land uses	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	

All Other Impervious Source Areas	3 feet or more	Filtering Layer
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- (h) Maximum Extent Practicable. If the design cannot meet the infiltration performance standard of subparagraph (a), Table 4, the Storm Water Management Plan shall include a written, site-specific explanation of why the infiltration performance standard cannot be met and why the infiltration volume will be reduced only to the maximum extent practicable. All claims of “maximum extent practicable” require concurrence from the administering authority.
- (i) Exemptions. Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas, or under these conditions, is optional:
 - (i) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site by the double ring infiltrometer method at the depth of potential infiltration or another method acceptable by the administering authority.
 - (ii) 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.
- (j) Where alternate uses of runoff are employed, such as for toilet flushing, laundry, irrigation, or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.
- (k) Groundwater standards
 - (i) Infiltration systems designed in accordance with this section shall, 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. 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.
 - (ii) Notwithstanding subsection (D)(3)(k)(i), the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- (4) 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) Protective area linear distances shall be:
 - (i) 75 feet 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.

- (ii) 50 feet 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.
 - (iii) 50 feet for lakes.
 - (iv) 50 feet for wetlands not subject to subsections (D)(4)(a)(v) and (vi)
 - (v) 75 feet for highly susceptible wetlands, 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.
 - (vi) 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet for less susceptible wetlands. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 - (vii) 10 feet for concentrated flow channels with drainage areas greater than 130 acres.
- (b) For subsections (D)(4)(a)(iv), (v), and (vi), 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.
- (c) Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). The protective area requirements do not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
- (d) Notwithstanding subsections (D)(4)(a)(i) to (vii), the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.
- (e) Applicability. The protective area requirements apply to post-construction sites located within a protective area, except those areas exempted pursuant to subsection (D)(4)(h).
- (f) Requirements. The following requirements shall be met:
- (i) Impervious surfaces shall be kept out of the protective area to the 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. All claims of "maximum extent practicable" require concurrence from the administering authority.
 - (ii) 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.

- (iii) Best management practices such as filter strips, swales, or wet detention basins, which are designed to control pollutants from non-point sources, may be located in the protective area.
 - (g) A protective area established or created after the effective date of this article shall not be eliminated or reduced, except as allowed in subsection (D)(4)(h).(i), (ii), or (iii) below.
 - (h) Exemptions. Protective area requirements do not apply to:
 - (i) Redevelopment and routine maintenance areas provided the minimum requirements within in subsection (C) are satisfied.
 - (ii) In-fill development areas less than 5 acres.
 - (iii) Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - (iv) Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
 - (v) Post-construction sites from which runoff does not enter the surface water, including wetlands, 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, to the maximum extent practicable, no visible petroleum sheen.
 - (a) This applies to:
 - (i) New fueling and vehicle maintenance areas approved after the effective date of this chapter.
 - (ii) Any modifications to existing fueling and vehicle maintenance areas. BMPs installed as part of a site modification shall be designed and operated to treat all storm water leaving the site so that the storm water contains, to the maximum extent practicable, no visible petroleum sheen.
- (6) Swale Treatment for Transportation Facilities – This paragraph is not applicable to transportation facilities that are part of a larger common plan of development or sale.
 - (a) Applicability. Except as provided in subsection (D)(6)(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:
 - (i) 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.
 - (ii) 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 for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the

time of concentration as appropriate. 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. Check dams may be included in the swale design to slow runoff flows and improve pollutant removal

- (b) Exemptions. The administering authority may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 - (i) An outstanding resource water.
 - (ii) An exceptional resource water.
 - (iii) 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.
 - (iv) Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(E) General Considerations for On-Site and Off-Site Storm Water Management Measures.

- (1) 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 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.

(F) 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.
- (2) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this article. Post-construction BMPs may be located in non-navigable surface waters.
- (3) Except as allowed under subsection (F)(4), post-construction runoff from new development shall meet the post-construction performance standards prior to entering waters of the state.
- (4) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this article if:
 - (a) The BMP was constructed prior to the effective date of this article and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and

- (b) The BMP is designed to provide runoff treatment from future upland development.
 - (5) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
 - (a) To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
 - (b) Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.
 - (6) The administering authority may approve off-site management measures provided that all of the following conditions are met:
 - (a) The administering authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the administering authority and that contains management requirements consistent with the purpose and intent of this article.
 - (b) The off-site facility meets all of the following conditions:
 - (i) The facility is in place.
 - (ii) 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 article.
 - (iii) The facility has a legally obligated entity responsible for its long-term operation and maintenance.
 - (7) Where a regional treatment option exists such that the administering authority exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant may be required to pay a fee in an amount determined in negotiation with the administering authority. In determining the fee for post-construction runoff, the administering authority shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (G) Exemptions - The following areas are not required to meet the post-construction performance standards:
- (1) Agricultural production areas with less than 100,000 square feet of impervious surface disturbance.
 - (2) Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
 - (3) The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.
 - (a) Highway reconditioning or resurfacing.

- (b) Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements of subsection (D)(4) apply to minor reconstruction of a highway.
- (c) A transportation facility post-construction site with less than 10 percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard subsection (D)(4).
- (d) Routine maintenance if performed for storm water conveyance system cleaning.

SECTION 14-22 PERMITTING REQUIREMENTS, PROCEDURES AND FEES

- (A) Permit Required.
 - (1) The responsible party may not undertake land disturbing construction prior to receiving a post-construction runoff permit from the administering authority.
- (B) Permit Application and Fees.
 - (1) Unless specifically excluded by this article, the responsible party shall submit a permit application to the administering authority.
 - (2) Unless otherwise allowed, a permit application must be accompanied by a storm water management plan, site plans, maintenance plan, a maintenance agreement and a non-refundable permit administration fee.
 - (3) The storm water management plan shall be prepared to meet the requirements of Section 14-21 and Section 14-23. The maintenance agreement shall be prepared to meet the requirements of Section 14-24, the financial guarantee shall meet the requirements of Section 14-25 and fees shall be those established by the Common Council as set forth in Section 14-26.
- (C) Review and Approval of Permit Application. The administering authority shall review any permit application that is submitted with a storm water management plan, site plans, maintenance plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
 - (1) Within 15 business days of the receipt of a complete permit application, including all items as required by subsection (B), the administering authority shall inform the applicant whether the application, plans and maintenance agreement are approved, disapproved, or if more information is required, based on the requirements of this article.
 - (2) If the storm water permit application, plans, maintenance plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the administering authority shall issue the permit.
 - (3) If the storm water permit application, plans, maintenance plan or maintenance agreement is disapproved, the administering authority shall detail in writing the reasons for disapproval.
 - (4) The administering authority may request additional information from the applicant. If additional information is submitted, the administering authority shall have 15 business days from the date the additional information is received to inform the applicant that the storm water permit application, plans, maintenance plan, and maintenance agreement are either approved, disapproved, or if more information is required.

- (5) Failure by the administering authority to inform the permit applicant of a decision within 15 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued, unless the administering authority notifies the applicant that more time is required.

(D) Permit Requirements.

- (1) All permits issued under this article shall be subject to the conditions listed in this subsection, and holders of permits issued under this article shall be deemed to have accepted these conditions. The administering authority may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the administering authority to suspend or revoke this permit may be appealed in accordance with Section 14-38. 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.
- (2) The responsible party shall install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and permit.
- (3) The responsible party shall notify the administering authority at least 2 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 subsection (E), the responsible party shall make additional notification according to a schedule set forth by the administering authority so that BMP installations can be inspected during construction.
- (4) BMP installations required as part of this article shall be certified "as built" by a licensed professional engineer. The as built certification shall confirm that the BMP's were constructed in accordance with the approved Storm Water Management Plan. If the as built certification shows that the BMP's were not constructed in accordance with the approved Storm Water Management Plan, the licensed professional engineer shall update the Storm Water Management Plan in accordance with the as built information and submit the updated plan for approval of the administering authority. Completed storm water management BMP's must pass a final inspection by the administering authority to determine if they are in accordance with the approved storm water management plan and this article. The administering authority shall notify the responsible party in writing of any changes required in such BMP's to bring them into compliance with the conditions of the permit.
- (5) The responsible party shall submit all modifications to an approved Storm Water Management Plan to the administering authority for approval.
- (6) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the City of Oshkosh, or are transferred to subsequent private owner(s) as specified in the approved maintenance agreement.
- (7) The responsible party authorizes the administering authority to perform any work or operations necessary to bring storm water management BMP's into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under Stat. 66.0627, or to charging such costs against the financial guarantee posted under (Section 14-25).
- (8) If so directed by the administering authority, 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. The amount of time allowed for the required repairs to be completed will be stated in the notice from the administering authority.

- (9) The owner shall permit the administering authority access to the property for the purpose of inspecting the property for compliance with the approved storm water management plan and the permit.
 - (10) Where site development or redevelopment involves changes in direction, increases in peak rate, and/or total volume of runoff from a site, the administering authority may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety. This may include, but is not limited to, obtaining appropriate drainage or storm water easements.
 - (11) Violations of any permit condition shall be a violation of this Chapter and subject to the enforcement actions and penalties detailed in Article VI.
 - (12) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (E) Permit Conditions. Permits issued may include conditions established by administering authority in addition to the requirements needed to meet the performance standards in Section 14-21 or a financial guarantee as provided for in Section 14-25.
- (F) Permit Duration. Permits shall be valid from the date of issuance through the date the administering authority notifies the responsible party that all storm water management practices have passed the final inspection required under subsection (D)(4).

SECTION 14-23 STORM WATER MANAGEMENT PLAN

- (A) Plan Requirements. The storm water management plan shall comply with the City of Oshkosh Storm Water Reference Guide, City of Oshkosh Site Plan Review Application and Checklist, and contain at a minimum the following information:
- (1) Name, address, and telephone number of the responsible party.
 - (2) A legal description of the property proposed to be developed.
 - (3) Pre-development site map with property lines, limits of disturbance, and drainage patterns.
 - (4) Post-development site map with property lines, limits of disturbance, and drainage patterns.
 - (5) Total area of disturbed impervious surfaces within the site.
 - (6) Total area of new impervious surfaces within the site.
 - (7) Performance standards applicable to site.
 - (8) Proposed best management practices.
 - (9) Groundwater, bedrock, and soil limitations.

- (10) Separation distances. Storm water management practices shall be adequately separated from wells to prevent contamination of drinking water.
- (11) Seal and signature of the State of Wisconsin Registered Professional Engineer that prepared the plans.

SECTION 14-24 MAINTENANCE AGREEMENT

- (A) Maintenance Agreement Required. The maintenance agreement for storm water management practices shall be an agreement between the administering authority and the owner to provide for maintenance of storm water practices beyond the duration period of the 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 developed as a part of the Storm Water Management Plan.
 - (1) Identification of the storm water BMP's and designation of the drainage area served by the BMP's.
 - (2) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan.
 - (3) Identification of the responsible party responsible for long term maintenance of the storm water management BMP's identified in the storm water management plan.
 - (4) Requirement that the responsible party shall maintain storm water management BMP's in accordance with the schedule included in subsection (B)(2).
 - (5) Authorization for the administering authority 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) A requirement for the administering authority to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
 - (7) Agreement that the party designated as responsible for long term maintenance of the storm water management practices, shall be notified by the administering authority of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the administering authority.
 - (8) Authorization of the administering authority to perform the corrective actions identified in the inspection report if the responsible party does not make the required corrections in the specified time period. The administering authority shall perform the corrective actions identified in the inspection report and charge the responsible party for the cost of such work by way of a special charge pursuant to Wis. Stats. §66.0627.

SECTION 14-25 FINANCIAL GUARANTEE

- (A) Establishment of the Guarantee. The administering authority may require the submittal of a financial

guarantee, the form and type of which shall be acceptable to the administering authority. The financial guarantee shall be in an amount determined by the administering authority to be the estimated cost of construction and the estimated cost of maintenance of the storm water management BMP's during the period which the responsible party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the administering authority 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 administering authority that the requirements of this article have not been met.

- (B) Conditions for Release. Conditions for the release of the financial guarantee are as follows:
- (1) The administering authority shall release the portion of the financial guarantee established under this section, less any costs incurred by the administering authority to complete installation of BMP's, upon submission of "as built plans" by a licensed professional engineer and approval of the administering authority. The administering authority may make provisions for a partial release of the financial guarantee based on the completion of various stages of storm water management BMP's.
 - (2) The administering authority shall release the portion of the financial guarantee established under this section to assure maintenance of storm water BMP's, less any costs incurred by the administering authority, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

SECTION 14-26 FEE SCHEDULE

The fees referred to in other sections of this chapter shall be established by the governing body and may from time to time be modified by resolution. A schedule of the fees established by the governing body shall be available for review in the administering authority office, Room 301 City Hall, 215 Church Avenue, Oshkosh, WI.

ARTICLE IV: ALTERNATE REQUIREMENTS

SECTION 14-27 ALTERNATE REQUIREMENTS

- (A) State Targeted Performance Standards. The administering authority may establish erosion and sediment control requirements and post-construction requirements more stringent than those set forth in this chapter to meet Targeted Performance Standards established by the DNR or other regulatory agency to attain water quality standards or groundwater quality standards.
- (B) The administering authority may establish requirements more stringent than those set forth in this chapter if the administering authority determines that additional storm water management or water quality protection is needed.
- (C) The administering authority may establish requirements less stringent than those set forth in this chapter if the administering authority determines that less protection is needed to protect sensitive resources and still provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by DNR.

ARTICLE V: ILLICIT DISCHARGE AND CONNECTION TO THE CITY STORM SEWER SYSTEM**SECTION 14-28 PURPOSE / INTENT**

- (A) The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the City of Oshkosh through the regulation of non-storm water discharges to the MS4, as required by federal and state law, to the maximum extent practicable. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this article are:
- (1) To regulate the contribution of pollutants to the MS4 by non-storm water discharges by any person.
 - (2) To prohibit illicit connections and discharges to the MS4.
 - (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this article.
- (B) The standards set forth in this article are minimum standards. The minimum standards do not imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

SECTION 14-29 APPLICABILITY

This article shall apply to all water entering the MS4 generated on any lands within the City of Oshkosh unless explicitly exempted by the administering authority.

SECTION 14-30 DISCHARGE PROHIBITIONS

- (A) Prohibition of Illicit Discharges.
- (1) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.
- (B) Allowed Discharges. The following types of discharges are exempt from the provisions of this Article:
- (1) Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
 - (2) Discharges or flow from firefighting, and other discharges specified in writing by the administering authority as being necessary to protect public health and safety.
 - (3) Discharges associated with dye testing, however this activity requires a verbal notification to the administering authority and the DNR a minimum of one business day prior to the time of

- the test.
- (4) Any non-storm water discharge permitted under an WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the DNR. Any person subject to such an WPDES storm water discharge permit shall comply with all provisions of such permit.

SECTION 14-31 PROHIBITION OF ILLICIT CONNECTIONS

- (A) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (B) 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.
- (C) A person is considered to be in violation of this article if the person connects a line conveying wastewater to the MS4, or allows such a connection to continue.
- (D) Illicit connections must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the administering authority.
- (E) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner of that property upon receipt of written notice of violation from the administering authority requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the administering authority.

SECTION 14-32 WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, 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 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.

SECTION 14-33 COMPLIANCE MONITORING

- (A) Right of Entry: Inspecting and Sampling.
- (1) The administering authority shall be permitted to enter and inspect the premises subject to regulation under this article as often as may be necessary to determine compliance.
- (a) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the administering authority.

- (b) Owner shall allow the administering authority ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records relative to this Chapter.
- (c) The administering authority may set up on any premises such devices as are necessary in the opinion of the administering authority to conduct monitoring and/or sampling of the facility's storm water discharge.
- (d) The administering authority may require the discharger to install monitoring equipment as necessary. The owner's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the owner at the written or oral request of the administering authority and shall not be replaced. The costs of clearing such access shall be borne by the owner.
- (f) Unreasonable delays in allowing the administering authority access to a premises are a violation of this Chapter. A person who is the owner of a premises is in violation of this article if the person denies the administering authority reasonable access to the premises for the purpose of conducting any activity authorized or required by this article.
- (g) Special Inspection Warrant. If the administering authority has been refused access to any part of the premises from which storm water is discharged, and is able to demonstrate probable cause that there may be a violation of this article, 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 article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the administering authority may seek issuance of a special inspection warrant per state statute 66.0119.

SECTION 14-34 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The owner of any activity, operation, or premises which may cause or contribute to pollution or contamination of storm water, the MS4, or waters of the state, shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a premise, that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Storm Water Management Plan (SWMP)/Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance.

SECTION 14-35 NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a premises or operation, or responsible for emergency response for a premises or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or waters of the state, 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 administering authority in person, by phone, by email, 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 administering authority within 3 business days of the in person, or by 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 5 years.

For all spills said person shall immediately notify the WDNR spills hotline.

Failure to provide notification of a release as provided above is a violation of this article.

ARTICLE VI: ENFORCEMENT, PENALTIES, APPEALS, AND SEVERABILITY

SECTION 14-36 ENFORCEMENT

(A) Violations.

- (1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.
- (2) Any violation of the requirements of this Chapter may be deemed a public nuisance and abated pursuant to the procession of Section 17-38 of this Municipal Code.
- (3) **Cost of Abatement of Violation**
Within 60 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the administering authority, the charges shall be collected as a special charge against the property pursuant to Wis. Stats. 66.0627.

(B) Revocation of Permit.

- (1) If the administering authority shall find at any time that the code, laws, orders, plans and specifications are not being complied with, they shall revoke the permit by written notice posted at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work upon the site until the permit is reissued, excepting such work as the administering authority shall order to be done as a condition precedent to the re-issuance of the permit.

(C) Penalties.

- (1) Any person, firm, association, or corporation who does not comply with the provisions of this chapter shall be subject to a forfeiture of not less than seventy five (\$75.00) dollars or more than five hundred (\$500.00) dollars per offense, plus the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

SECTION 14-37 APPEALS**(A) Authority: Board of Public Works.**

The Board of Public Works shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the administering authority in administering this chapter. The board, upon appeal, may authorize variances from the provisions of this chapter which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the chapter will result in unnecessary hardship. The board shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(B) Rates and Charges.

(1) The City of Oshkosh elects not to be subject to the administrative review provisions contained within Chapter 68 of the Wisconsin Statutes, and establishes the following as a complete and final review procedure: As a condition precedent to challenging any Storm Water Utility charge, the charge must be timely paid in full under protest to the City. An appeal shall be to the City Manager and can be undertaken only by filing a written appeal with the City Clerk concurrent with the date of payment. The written appeal shall specify all grounds for challenge to the amount of the charge and shall state the amount of charge that the appellant considers to be appropriate. Failure to timely and properly appeal shall deprive the city manager of jurisdiction to hear the appeal.

(a) In considering an appeal, the City Manager shall determine whether the Storm Water Utility charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The City Manager shall conduct a formal or informal hearing at such time and place as designated in a hearing notice to the appellant, providing five (5) business days notice to the appellant. The City Manager shall obtain sufficient facts upon which to make a determination. The decision shall be based upon the evidence presented. The City Manager shall notify the appellant in writing of the determination by first class mail addressed to the individual and at the address listed within the appeal. Service is conclusive upon mailing.

(2) The decision of the City Manager is final except if the property owner appeals the decision to the Storm Water Utility Appeals Board by filing a written appeal with the City Clerk no later than thirty (30) calendar days after the date of mailing the decision of the City Manager. The written appeal shall specify all grounds for challenge to the City Manager's decision and shall state the amount of charge that the appellant considers to be appropriate. Failure to timely and properly appeal shall deprive the Board of jurisdiction to hear the appeal.

(a) In considering an appeal, the Storm Water Utility Appeals Board shall determine whether the Storm Water Utility charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The Board shall consider the appeal pursuant to its rules for procedure in existence at the time of consideration. The City Clerk or designee shall provide written notice no later than five (5) business days to the address listed within the appeal of the time and place of the Board's consideration of the appeal. The Board shall base its decision solely upon the information presented at its meeting. The City Clerk or designee shall notify the appellant in writing of the Board's determination by first class mail addressed to the individual and at the address listed within the appeal. Service is conclusive upon mailing.

(3) The decision of the Storm Water Utility Appeals Board is final except if the property owner appeals the decision to a court of competent jurisdiction. Such appeal shall be filed no later

than thirty (30) calendar days after the date of mailing the decision of the Board. Such appeal shall be by writ of certiorari and the reviewing court shall be limited solely to the record created before the Board. Costs, but not attorney fees, shall be awarded to the prevailing party, at the sole discretion of the court.

- (4) If the result of any appeal is that a refund is due the appellant, the refund will be applied as a credit on the appellant's next storm water bill.

SECTION 14-38 SEVERABILITY

If a court of competent jurisdiction judges any section, clause, provision or portion of this chapter unconstitutional or invalid, the remainder of the chapter shall remain in force and not be affected by such judgment.

SECTION 14-39 COMPATIBILITY WITH OTHER REGULATIONS

This chapter is not intended to modify or repeal any other chapter, rule, regulation, or other provision of law. The requirements of this chapter are in addition to the requirements of any other chapter, rule, regulation, or other provision of law, and where any provision of this chapter imposes restrictions different from those imposed by any other chapter, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

SECTION 14-40 REMEDIES NOT EXCLUSIVE

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the administering authority to seek cumulative remedies.