

CITY OF MUSKEGO
CHAPTER 34 - STORM WATER MANAGEMENT
(Ord. #1287 – 12/04/2008)

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34.01 AUTHORITY

- (1) This ordinance is adopted by the City of Muskego under the authority granted by s. 62.234 Wis. Stats. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under s. 62.23, Wis. Stats. Except as specifically provided for in s. 62.234 Wis. Stats., s. 62.23 Wis. Stats. applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The City of Muskego hereby designates the City Engineer or his designee to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt storm water management requirements that may be imposed by Wisconsin Pollutant Discharge Elimination System (WPDES) Permits issued by the Department of Natural Resources under s. 147.021 Wis. Stats.

34.02 FINDINGS OF FACT

- (1) The City of Muskego finds that uncontrolled storm water runoff from land development activity has a significant impact upon water resources and the health, safety, and general welfare of the community. Specifically, uncontrolled storm water runoff can:
 - (a) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, and diminishing stream base flows;
 - (b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing loadings of nutrients and other urban pollutants;
 - (c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
 - (d) Reduce the quality of groundwater by increasing pollutant loads;
 - (e) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities;
 - (f) Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes;
 - (g) Undermine floodplain management efforts by increasing the incidence and levels of flooding;
 - (h) Diminish the public enjoyment of natural resources.
 - (i) Aggravate excessive infiltration and inflow of water into sanitary sewer connections during peak storm events causing the conveyance system to surcharge, overflow or back up into basements.

34.03 PURPOSE AND INTENT

(1) PURPOSE.

The purpose of this ordinance is to set forth storm water requirements and criteria which will prevent and control water pollution, diminish the threats to public health, safety, welfare, and aquatic life due to runoff of storm water from development or redevelopment.

(2) INTENT.

It is the general intent of the City of Muskego that this ordinance achieve its purpose through:

- (a) Regulating long-term, post-construction storm water discharges from land development activities;
- (b) Controlling the quantity, peak flow rates, and quality of storm water discharges from land development activities;
- (c) Providing services to maintain and enhance the quality of life within the community. To this end the City of Muskego will manage storm water to protect, maintain and enhance the natural environment; diversity of fish and wildlife; human life; property; and recreational use of waterways within the City of Muskego.
- (d) This chapter implements the Milwaukee Metropolitan Sewerage District Chapter 13 rules on release rates for development creating more than a de minimus amount of new impervious surface, as amended from time to time, to reduce the probability of increased regional floods as the metropolitan area approaches full build out forecast for 2050.

34.04 DEFINITIONS

- (1) "Agricultural use" means bee keeping; commercial feed-lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participation in the mile production termination program under 7 USC 1446 (d); and vegetable raising. (s. 91.01(1) Wisconsin State Statutes).
- (2) "Best Management Practice" or BMP means structural or non-structural measures, practices, techniques or devices employed to:
 - (a) Avoid or minimize sediment or pollutants carried in runoff to waters of the state or
 - (b) Manage the rate or volume of runoff.
- (3) "Business day" means a day which offices of the City of Muskego are routinely and customarily open for business.
- (4) "Cease and desist order" means a court issued order to halt land developing activity that is being conducted without the required permit.
- (5) "Commercial land development" means all development excluding residential development and agricultural use.

- (6) “Common plan of development” means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land developing activity may take place at different times and on different schedules.
- (7) “Critical Time” means the period starting at the time of peak rainfall intensity with a duration equal to the time of concentration of the watershed.
- (8) “Design Storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (9) “Development” means construction of residential, commercial, industrial, or institutional land uses and associated roads, including re-development.
- (10) “Discharge volume” means the quantity of runoff discharged from the land surface as the result of a rainfall event.
- (11) “Existing land use condition” means the condition of the proposed development site and the adjacent properties that is present at the time of the storm water permit application. This term applies only for the purpose of properly sizing the storm water conveyance system in accordance to the requirements of this ordinance in 34.07(4)(b).
- (12) “Fee in lieu” means a payment of money to the City of Muskego in place of meeting all or part of the storm water performance standards required by this ordinance.
- (13) “Financial Guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Muskego by the responsible party and acceptable to the City to assure that the requirements of the ordinance are carried out in compliance with the storm water management plan.
- (14) “Governing body” means the City of Muskego Common Council.
- (15) “Impervious Surface” means any pavement or structural element that prevents rain surface water runoff, or melting snow from infiltrating into the ground below, including, but not limited to, roofs, and paved roads, driveways, and parking lots.
- (16) “Infiltration” means the process by which rain or surface runoff penetrates into the underlying soil.
- (17) “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, redirected rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (18) “Land development activity” means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This term does not include agricultural cropping activities, and/or parking lots associated with agricultural activities.
- (19) “Maintenance agreement” means a legal document that is filed with the County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (20) “MEP or Maximum Extent Practical” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues

such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet performance standards and may vary based on the performance standard and site conditions.

- (21) “Natural wetlands” means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include existing, mitigation and restored wetlands.
- (22) “Non-storm water discharge” means a discharge to the storm sewer system created by some process other than the runoff from precipitation.
- (23) “Non-structural measure” means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants, in storm water that does not require the design or installation of fixed storm water management facilities.
- (24) “Off-site” means lands located outside the subject property boundary described in the permit application for land development activity.
- (25) “On-site” means lands located within the subject property boundary described in the permit application for land development activity.
- (26) “Peak flow or peak flow discharge rate” means the maximum rate at which a unit volume of storm water is discharged. This is usually expressed in terms of cubic feet per second (cfs).
- (27) “Performance security” means cash or an irrevocable letter of credit submitted to the City of Muskego, in a form acceptable to the City, by the permit holder to assure that requirements of the ordinance are carried out in compliance with the storm water management plan and to recover any costs incurred by the City for design, engineering, preparation, checking and review of plans and specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance.
- (28) “Permit,” means a written authorization made by the City of Muskego to the applicant to conduct land development activities.
- (29) “Permit application fee” means a sum of money paid to the City of Muskego by the permit applicant for the purpose of recouping expenses incurred by the authority in administering the permit.
- (30) “Post-development land use condition” means the extent and distribution of land cover types, anticipated to occur under conditions of full development that will influence precipitation runoff and infiltration.
- (31) “Pre-development land use condition” means land which has runoff characteristics equivalent to runoff Curve Numbers (CNs) of: 30, 58, 71, and 78 for Hydrologic Soil Groups A, B, C, and D, respectively (as described in the USDA Soil Survey of Milwaukee and Waukesha Counties, Wisconsin, 1971).
- (32) “Pre-treatment” is the practice of reducing pollutants in storm water before discharging the storm water to a wetland or another pollution control structure.
- (33) “Public Right of Way” means any road, alley, street, parking lot, sidewalk, plaza, mall, or pathway owned by or dedicated to the governmental unit.
- (34) “Recreational Trail” means a path that is:

- (a) Distinctly set apart from a roadway, street, alley
 - (b) Designated for activities such as jogging, walking, hiking, bicycle riding, or similar recreational activities not involving the use of motorized vehicles: and
 - (c) Not a sidewalk according to sec. 340.01(58), Wisconsin Statutes.
- (35) “Regional Flood” means the peak flow and peak elevation of water with a one percent (1%) probability of occurring during any one year, considering rainfall time and intensity patterns, rainfall duration, area distribution, antecedent moisture, and snow melt.
- (36) “Re-Development” means new construction, modification or replacement of an older development.
- (37) “Residential land development” means that which is created to house people, including the residential dwellings as well as all affected portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, apartment, and trailer parks.
- (38) “Responsible Party” means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMP’s.
- (39) “Stop work order” means an order issued by the City of Muskego, which requires that all construction activity on the site be stopped.
- (40) “Storm water conveyance system” means any method employed to carry storm water runoff from a development to the waters of the State. Examples of methods include: swales, channels, and storm sewers.
- (41) “Storm water management plan” means a document provided by the land developer, land owner, or permit holder that identifies what actions will be taken to reduce storm water quantity and pollutant loads from the post-development land use condition to levels meeting the requirements of this ordinance.
- (42) “Storm water runoff” means that portion of precipitation that does not soak into the soil, and thus flows off the surface of the land and into the natural or artificial conveyance network.
- (43) “Storm water management measure” means structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- (44) “Time of Concentration” means the time period for the furthest runoff from the outlet of a watershed to contribute to flow at the watershed outlet.
- (45) “TR-55” means the United States Department of Agriculture, Natural resources Conservation Service, Urban Hydrology for Small Watershed, Second Edition, Technical Release 55, June 1986.
- (46) “Type II Distribution” means a rainfall type curve as established in the United States Department of Agriculture, Soil Conservation Service Technical Paper 149, Published 1973. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

- (47) Water Quality Management” means the stormwater standards and duties established under the Clean Water Act 33 U.S.C. 1251 et. Seq., parallel state law regulating the discharge of pollutants, and implementing regulations.
- (48) “Water Quantity Management” means storm water duties and practices to abate peak flood flows during regional storm events pursuant to Chapter 13 of the Milwaukee Metropolitan Sewerage District rules as implemented and enforced by this municipality.
- (49) “Wetland functional value” means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education.

34.05 APPLICABILITY AND JURISDICTION

(1) APPLICABILITY.

This ordinance applies to land development and redevelopment activities which meet the applicability criteria specified in this section. The water quality management duties apply to property development disturbing one (1) or more acres outside of the “Urbanized Area” as defined in NR 216 Phase II rule, and the water quantity management duties apply to development that increases impervious surface by one-half acre or more, unless the site is exempt under paragraph (2) or (3). The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

- (a) Residential land development;
 - (b) Commercial land development (includes industrial and business zoned areas);
 - (c) Land development activity which in the opinion of the City Engineer or his designee is likely to result in storm water runoff which causes undue channel erosion, increases water pollution or which endangers downstream property or public safety.
- (2) A site meeting any one of the following criteria is exempt from Storm Water quality requirements.
- (a) A redevelopment post construction site with no increase in exposed parking lots or roads.
 - (b) A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and roof tops is less than one acre.
 - (c) Nonpoint discharges from agricultural facilities and practices.
 - (d) Nonpoint discharges from silviculture activities.
 - (e) Routine maintenance for project sites under five (5) acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 - (f) Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

- (3) Water Quantity Management as defined in Chapter 13 MMSD duties do not apply if:
- (a) Residential Infill where the lot is five acres or less, the development is exclusively residential, the net increase in the area of impervious surface is less than 20 % of the area of the site; and each boundary of the site is contiguous to: sites that contain earlier development served by sanitary sewers, streets, or public water supply when the governmental unit receives the plans for the new development or parkland; or other public land, a utility right of way, or a watercourse; or,
 - (b) Sites where the area of impervious surface after the development will be 5% or less of the total area of the site.
 - (c) Recreational trails if the trail is less than or equal to ten (10) feet in width and has a continuous pervious buffer at least five (5) feet wide on each side, disregarding interruption by streets, driveways, or other impervious surfaces crossing the trail
 - (d) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to post-construction sites of any size that, in the opinion of the City Engineer or his designee, is likely to result in the runoff that exceeds the capacity of the existing drainage facilities or the level of flooding protection in a watercourse that causes undue channel erosion, that increases water pollution by scouring or transportation of particulate matter or that endangers property or public safety.

(4) JURISDICTION.

This ordinance applies to land development activities within the boundaries of the City of Muskego. The provisions of Milwaukee Metropolitan Sewerage District's Chapter 13 shall only apply to the lands included in the Ultimate Sanitary Sewer Service Boundary as delineated in Chapter 4, **System of Main and Intercepting Sewers, Extensions, and Sewer Boundaries**, Adopted August 18, 1982, Amended January 6, 1983, Amended July 23, 1983. The provisions of Chapter 13.17 **Outfalls and Storm Water Conveyance Systems** shall only apply to lands with watershed discharges tributary to the Root River Watershed.

(5) WAIVERS.

Requests to waive the storm water management plans requirements shall be submitted to the City Engineer or his designee for approval. Waivers may be granted if it can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

34.06 STORM WATER MANAGEMENT TECHNICAL STANDARDS

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

- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of Chapter NR 151, Wisconsin Administrative Code.
- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the City Engineer or his designee.
- (3) The most recent rainfall data available from the South Eastern Regional Planning Commission or more protective data shall be the basis for the analyses required by the ordinance.

34.07 PERFORMANCE STANDARDS

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

(2) PLAN.

A written storm water quality and quantity management plan in accordance with Section 34.09 shall be developed and implemented for each post-construction site.

(3) REQUIREMENTS.

The water quality plan required under sub. (2) shall include the following:

(a) TOTAL SUSPENDED SOLIDS.

BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff managed controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of the subdivision.
2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls.
3. For in-fill development under five (5) acres that occurs within ten (10) years after the effective date of this rule, by design reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average rainfall, as compared to no runoff management controls.
4. For in-fill development that occurs ten (10) or more years after the effective date of this rule, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls.
5. Notwithstanding subds. 1 to 4, if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site specific explanation why the level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(b) WATER QUANTITY AND MANAGEMENT OF PEAK RUNOFF

1. BMPs shall manage the volume, timing and peak flow rate of runoff to prevent increases in the regional flood and stream bank erosion rates.
2. These BMPs may be implemented on either a watershed basis or individual site basis.
3. When implemented on a watershed basis, the BMPs implemented at a particular site shall comply with the findings of the relevant local or regional storm water management plan, rather than subd. 4 or 5.
4. For the 50%/2-year, 24-hour design storm, BMPs shall be designed to either

- a. Maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions, or
- b. Achieve a maximum runoff release rate of 0.15 cubic feet per second per acre, whichever is more stringent.
- c. Pre-development conditions shall assume good hydrologic conditions for appropriate land covers as identified in TR-55 or equivalent methodology. The meaning of hydrologic soil group and runoff curve numbers are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

Table 1 Maximum Pre-Development Runoff Curve Numbers for Cropland Areas				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

- 5. For the 1%/100-year, 24-hour design storm, BMPs shall be designed to achieve a runoff release rate that is less than or equal to either:
 - a. 0.5 cubic feet per second (cfs) per acre, or
 - b. A rate determined for the individual site that distributes runoff over the critical time sufficient to comply with subd. 1, and meets MMSD Chapter 13.11(3)(b)(2).
- 6. BMPs shall be designed, installed and maintained to meet the standards of subd. 4 and 5 and/or 34.07 (4) whichever is greater

(c) INFILTRATION.

BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subd. 5 through 8.

- 1. For residential developments one of the following shall be met:
 - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - b. Infiltrate 25% of the post-development runoff from the 2 year - 24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
- 2. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:

- a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - b. Infiltrate 10% of the runoff from the 2 year - 24 hour design storm with a type distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
3. Pre-development condition shall be the same as in par. (b).
4. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 8. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
5. Infiltration Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:
 - a. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 - b. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.
 - c. Fueling and vehicle maintenance areas.
 - d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
 - e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 5.e. does not prohibit infiltration of roof runoff.
 - f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
 - g. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, Municipal Code 28.02(2) and 17.9(11) for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

- a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.
 - b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
 - c. For lakes, 50 feet.
 - d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The 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.
 - e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 - f. In subd. 1.a., d. and e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.
 - g. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
2. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
 3. The following requirements shall be met:
 - a. 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.
 - b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 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.

- c. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.
4. This paragraph does not apply to:
 - a. Redevelopment post-construction sites.
 - b. In-fill development areas less than 5 acres.
 - c. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - d. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
 - e. Post construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
 5. Discharge of urban storm water pollutants to natural wetlands without pre-treatment shall be avoided to the extent practical. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City of Muskego Public Works Committee in conjunction with the City Engineer or his designee. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the WDNR. Significant changes to wetland functional values due to storm water pollutant loads shall be avoided.

(e) FUELING AND VEHICLE MAINTENANCE AREAS.

1. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen. Note to Users: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(4) STORM WATER DISCHARGE RATE.

Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of storm water discharged from the site as described in this ordinance. Infiltration of storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas shall be incorporated to the maximum extent practical to provide volume control in addition to control of peak flows.

- (a) Storm water runoff from the site shall be managed such that the peak flow generated from a 100 year storm under “post-development” conditions shall not exceed the peak flow generated from a 2 year storm under “pre-development” conditions (as defined in 34.04 (31)) for the 24 hour duration storm.
- (b) All storm water conveyance systems within the proposed development, shall be designed to completely contain the peak storm flows as described in 34.07(b)(1., 2., and 3). Calculations for determining peak flows for conveyance system sizing shall use Curve Numbers based on the existing or future proposed land use for off-site areas (whichever results in the highest peak flows), and the proposed land use for the on-site areas. Appropriate Curve Numbers are described in Urban Hydrology for

Small Watersheds, TR-55 (Technical Release 55) published by the Engineering Division, United States Natural Resource Conservation Service (formerly known as the Soil Conservation Service) United States Department of Agriculture, June 1992. An alternative method that may be used is the Rational Method as described in Chapter 13 of the Wisconsin Department of Transportation Facilities Development Manual.

1. For open channel conveyance systems the peak flow from the 50 year, 24 hour storm shall be completely contained within the channel bottom and banks.
 2. For storm sewer pipes the peak flow from the 25 year, 24 hour storm shall be completely contained within the pipes with no surcharging.
 3. For storms greater than the 10 year, 24 hour event, and up to the 100 year, 24 hour event, ponding shall not exceed existing or proposed street right of way, which ever is less. In no case shall the depth of water exceed 12 inches at the outer edge of pavement.
- (c) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of 34.07(3 and 4) shall be computed by procedures based on the principals and procedures described in Urban Hydrology for Small Watershed, TR-55 (Technical Release 55) published by the Engineering Division, United States Natural Resource Conservation Service (formerly known as the Soil Conservation Service) United States Department of Agriculture, June 1992. Other calculation methods must be approved by the City of Muskego Public Works Committee.
- (d) The rainfall distributions for the storm events shall be based on the SCS Type II storms as described in Urban Hydrology for Small Watershed, TR-55 (Technical Release 55) published by the Engineering Division, United States Natural Resource Conservation Service (formerly known as the Soil Conservation Service) United States Department of Agriculture, June, 1992.
- (e) Increases or decreases in the hydrology of natural wetlands shall be minimized. Existing wetlands shall not be incorporated in the proposed storm water management practice for peak flow control. Peak flow shall be managed prior to discharge to an existing wetland. Should any changes to natural wetlands be proposed, the impact of the proposal on wetland functional values shall be assessed. Significant changes to wetland functional values shall be avoided (as defined by Wisconsin Administrative Code NR 103).

(5) LOCATION AND REGIONAL TREATMENT OPTION.

The minimum requirements for on-site storm water management practices established in 34.07 (3) and (4) may be waived in whole or in part by the City of Muskego upon written request of the applicant, provided that at least one of the following conditions applies:

- (a) Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the City of Muskego.
- (b) Provisions are made to manage storm water by an off-site facility in the same watershed. This requires that the off-site facility is in place, is designed and adequately sized to the requirements of this ordinance, and has a legally obligated entity responsible for long-term operation and maintenance of the storm water practice.

- (c) Innovative storm water management systems that do not meet 34.07(3) or (4) are reviewed and acted upon by the City Engineer or his designee and approved by the Public Works Committee.
- (d) Same site Credit. The applicant may use the removal of pavement, covered structures or other impervious surfaces at the same property to calculate the net post construction impervious acreage and corresponding water quantity management duties. Credit may equal, but not be larger than the acreage of impervious surfaces removed when runoff release rates and detention are the best management practices utilized at the site. When best management practices with a higher order of preference are utilized in lieu of detention, equivalent credit may be granted as determined by the City Engineer or his designee with the concurrence of the MMSD. Credit for reducing impervious surfaces at a site, not utilized by the development on the site, belongs to the City of Muskego and may be banked for allocation to other development within the watershed under subsection (e).
- (e) Dispersed Site in Same Watershed Credit. The applicant may bank the removal of impervious surfaces, which individually must be one half acre or more, within the same watershed, where the volume, timing and peak flow of runoff will be distributed over the critical time sufficient to assure the level of protection provided by MMSD flood abatement projects will not be reduced. The City of Muskego may allocate banked credit to promote a policy of smart growth. The total acreage banked or allocated, or both, shall be reported, by watershed or sub-watershed, annually to the MMSD for concurrence.
- (f) Except as allowed under par. (g), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
- (g) 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 ordinance if:
 1. The BMP was constructed prior to the effective date of this ordinance 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
 2. The BMP is designed to provide runoff treatment from future upland development.

(6) FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT PRACTICES.

Where the City of Muskego waives all or part of the minimum on-site storm water management requirements under 34.07(5)(a), or where the waiver is based on the provision of adequate storm water facilities provided by the City of Muskego downstream of the proposed development, as provided for under 34.07(5)(b), the applicant shall be required to pay a fee in an amount as determined by the City of Muskego pursuant to s. 66.0821 Wisconsin Stats. and any other applicable law.

(7) GENERAL CONSIDERATIONS FOR ON-SITE STORM WATER MANAGEMENT MEASURES.

The following considerations shall be observed in managing storm water 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, (as determined by the Public Works Committee) 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.
- (c) Storm water management measures used in developing the storm water management plan should be considered according to the following order of preference. Limitations to this order of preference that may be recognized include natural site characteristics, financial feasibility, type of development, legal rights in redirecting storm water flows, and other restrictions specified in 34.07(3)(a) and The Wisconsin Stormwater Manual, Part Two: Technical Design Guidelines for Stormwater BMP's (Wisconsin Department of Natural Resources, in preparation).
 - 1. On-site infiltration measures for rooftop, sidewalk, parking lot and driveway runoff,
 - 2. On-site and off-site infiltration style conveyance measures,
 - 3. Off-site wet detention measures,
 - 4. On-site wet detention measures,
 - 5. Extended detention measures,
 - 6. Off-site infiltration measures.

34.08 PERMITTING REQUIREMENT, PROCEDURES AND FEES

(1) PERMIT REQUIRED.

No responsible party may undertake a land disturbing construction activity subject to this ordinance without receiving a permit from the City of Muskego prior to commencing the proposed activity.

(2) PERMIT APPLICATION AND FEE.

Unless specifically excluded by this ordinance, any land owner or operator desiring a permit shall submit to the City of Muskego Engineering/Building Inspection Department a permit application made on a form provided by the City of Muskego for that purpose.

- (a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following information as set forth in Table 1.

Table 1					
Land Development Activity	Permit ^a	Storm Water Management Plan	Grading Plan ^b	Maintenance Agreement ^c	Fee
Agricultural Use	--	--	--	--	--
Commercial	X	X	X	X	X
1 & 2 Family Residential	X	--	X	--	--
Multi Family Residential	X	X	X	X	X
Subdivision Development	X	X	X	X	X

1. Combined grading and drainage plan to be reviewed by city staff.
2. Unless previously provided by Certified Survey Map, subdivision design, or other.
3. If storm water management plan requires maintainable structures.

(b) The storm water management plan shall be prepared to meet the requirements of 34.07 and 34.09 of this ordinance, the maintenance agreement shall be prepared to meet the requirements of 34.10 of this ordinance, and fees shall be those established by the City of Muskego.

(c) Fees for the above noted permits shall be in such amount as may be established by the City of Muskego Common Council from time to time by separate resolution.

(3) REVIEW AND APPROVAL OF PERMIT APPLICATION.

The Engineering/Building Inspection Department or its designee shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee, as follows:

(a) Within 60 business days of the receipt of a complete permit application, including all items as required by sub. (2), the Engineering/Building Inspection Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(b) If the storm water permit application, plan and maintenance are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the City of Muskego Engineering-Building Inspection Department shall issue the permit.

(c) If the storm water permit application, plan or maintenance agreement is disapproved, the City of Muskego Engineering/Building Inspection Department shall detail in writing the reasons for disapproval.

(d) The City of Muskego Engineering/Building Inspection Department may request additional information from the applicant. If additional information is submitted, the Engineering/Building Inspection Department shall have 15 business days from the

date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(4) PERMIT CONDITIONS.

All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City of Muskego may suspend or revoke a permit for violation of a permit condition, following written notification to the permittee. An action by the City of Muskego to suspend or revoke this permit may be appealed in accordance with 34.13 of this ordinance.

- (a) Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (b) The responsible party shall design, install, and maintain all structural or identify non-structural storm water management measures or both, in accordance with the approved storm water management plan, storm water management guide, maintenance agreement, and this permit.
- (c) The permit holder shall notify the City of Muskego at least 3 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, the responsible party shall make additional notifications according to a schedule set forth by the City of Muskego so that installation(s) of storm water management practices can be inspected during construction.
- (d) Completed storm water management practices must pass a final inspection to determine if they are in accordance with the approved storm water management plan, storm water management guide and ordinance. The inspection must be made by the City of Muskego, or other competent professionals identified by the City of Muskego. The practice installations shall be certified "as-built" by a licensed professional engineer or land surveyor. The City of Muskego shall notify the permit holder in writing of any changes required in such practices to bring them into compliance with the conditions of the permit. The responsible party is further required to submit a certificate of completion, stating the completion of the permitted work in accordance with the plans, City of Muskego, state and federal requirements. The certificate must be signed by the responsible party, the contractor, the design engineer, and authorized City representative.
- (e) The permit holder shall notify the City Engineer or his designee of any significant modification(s) it intends to make to an approved storm water management plan, grading plan or maintenance agreement. The City Engineer or his designee may require that the proposed modification(s) be submitted for approval prior to incorporation into the storm water management plan and execution.
- (f) The responsible party shall maintain all storm water management practices specified in the approved storm water management plan until the practices either become the responsibility of the City of Muskego, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (g) The responsible party authorizes the City of Muskego to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to placing associated costs upon the tax roll as a special lien against the property which may be collected as special charges pursuant to chapter 66.0627 Wis. Stats by the City of

Muskego or to charging such costs against the letter of credit, or cash posted for the project.

- (h) If so directed by the City of Muskego, the permit holder shall repair at the permit holder's own expense all damage to adjoining municipal facilities and drainage ways caused by storm water runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
- (i) The permit holder shall permit property access to the City of Muskego for the purpose of inspecting the property for compliance with the approved storm water management plan and the permit.
- (j) Where necessary, it shall be the responsibility of the permit holder to obtain from adjacent property owners any easements or other required property interests concerning flowage of water. Issuance of the permit does not create or affect any such rights.
- (k) The permit holder is subject to the enforceable actions detailed in 34.12 of the storm water management ordinance if the permit holder fails to comply with the terms of the permit.
- (l) Permits issued under this subsection may include reasonable and necessary conditions established by the City Engineer or his designee in addition to the requirements needed to meet the performance standards in 34.07.

(5) PERMIT DURATION.

Permits issued under this section shall be valid from the date of issuance through the date the City of Muskego notifies the permit holder that all storm water management practices (including landscaping materials) have passed the final inspection required under Permit Condition.

34.09 STORM WATER MANAGEMENT PLANS

(1) PLAN REQUIREMENTS.

The storm water management and grading plan required under 34.08 of this ordinance shall contain at a minimum the following information:

- (a) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
- (b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- (c) Pre-development site conditions, including:
 - 1. One or more site maps at a scale of not less than 1 inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 2 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site;

watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the regional flood (the 1% probability storm event) floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 116, Wis. Adm. Code.

2. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- (d) Post-development site conditions, including:
1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 3. One or more site maps at a scale of not less than 1 inch equals 100 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 2 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
- (e) A description and installation schedule for the storm water management practices needed to meet the performance standards in 34.07.

- (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
- (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
- (h) Other information requested in writing by the City Engineer or his designee to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
- (i) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.

(2) ALTERNATE REQUIREMENTS.

The City of Muskego may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 34.07(5).

34.10 MAINTENANCE AGREEMENT

(1) MAINTENANCE AGREEMENT REQUIRED.

The maintenance agreement required for storm water management practices under 34.08(2) of this ordinance shall be an agreement between the City of Muskego and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The agreement shall be recorded as a property deed restriction by the permit applicant with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the storm water management practices.

(2) AGREEMENT PROVISIONS.

The maintenance agreement shall contain the following provisions:

- (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
- (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under 34.08(2)
- (c) Identification of the responsible party(s) responsible for long-term maintenance of the storm water management practices identified in the storm water management plan required under 34.08(2)
- (d) Authorization for the City of Muskego, it's designee and the Milwaukee Metropolitan Sewerage District to access the property to conduct inspections of storm water practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved storm water management plan.
- (e) The City of Muskego shall maintain public records of the results of the site inspections, and shall inform the responsible party(s) for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water management practice into proper working condition and give a reasonable time frame during which the corrective action must be taken.

- (f) Authorization for the City of Muskego to perform the corrected actions identified in the inspection report if the responsible party(s) does not make the required corrections in the specified time period. The City of Muskego shall specially charge the responsible party(s) for the cost of such work, which may be collected as special charges pursuant to chapter 66.0627 Wis. Stats. by the City of Muskego.

(3) TERMINATION OF AGREEMENT.

The maintenance agreement shall be terminated at such time that responsibility for maintenance of the storm water management practice is legally transferred to the City of Muskego or agency acceptable to the City of Muskego, through a written, binding agreement. The termination date of the maintenance agreement required under 34.10(l) shall be the date upon which the legal transfer of maintenance responsibility to the City of Muskego or agency is made effective.

34.11 FINANCIAL GUARANTEE

(1) ESTABLISHMENT OF THE GUARANTEE.

The City of Muskego may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the City of Muskego. The financial guarantee shall be in an amount determined by the City Engineer or his designee to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the City of Muskego 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 ordinance have not been met.

(2) CONDITIONS FOR RELEASE.

Conditions for the release of the financial guarantee are as follows:

- (a) The City of Muskego shall release the portion of the financial guarantee established under this section, less any costs incurred by the City of Muskego to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The City of Muskego may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
- (b) The City of Muskego shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the City of Muskego, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

34.12 ENFORCEMENT AND PENALTIES

- (1) Any land disturbing construction activity or post construction run-off initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The City of Muskego shall notify the responsible party(s) in writing of any non-complying land disturbing construction activity or post construction run-off. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and

additional enforcement action, which may be taken. Any technique that effectively provides actual and verifiable notice may be used.

- (3) Upon receipt of written notification from the City of Muskego, the responsible party(s) shall correct work, which does not comply with the storm water management plan or other provisions of this permit within the time as set forth by the City of Muskego within said written notice. The permit holder shall make corrections as necessary to meet the specifications and schedule set forth by the City of Muskego in the notice.
- (4) The City of Muskego is authorized to post a stop work order on all land development activity in violation of this ordinance, or to request the City of Muskego attorney or corporation counsel to obtain a cease and desist order.
- (5) The City of Muskego may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.
- (6) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the City of Muskego or by a court of competent jurisdiction.
- (7) The City of Muskego is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the City of Muskego attorney for the commencement of further legal proceedings.
- (8) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Muskego Municipal Code 25.04. Each day that the violation exists shall constitute a separate offense.
- (9) Every violation of this ordinance is a public nuisance. Compliance with this ordinance may be enforced by injunctive order at the suit of the City of Muskego pursuant to s. 62.23(8) Wis. Stats. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.
- (10) When the City of Muskego determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan submitted and approved pursuant to 34.08 of this ordinance, or has failed to comply with schedules set forth in said storm water management plan, the City of Muskego or a party designated by the City of Muskego may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Muskego shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to 34.11 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.
- (11) If the violations are likely to result in damage to properties, public facilities, or waters of the state, the City of Muskego may enter the land and take corrective actions necessary to prevent such damage. The costs incurred by the City of Muskego plus interest and legal costs shall be paid by the responsible party. The responsible party also consents to placing associated costs upon the tax roll as a special lien against the property which may be collected as special charges pursuant to chapter 66.0627 Wis. Statutes by City of Muskego or charging costs against the letter of credit, or cash posted for the project.

34.13 APPEALS

(1) BOARD OF APPEALS.

The Zoning Board of Appeals, created under chapter one of the City of Muskego Municipal Code pursuant to s. 62.23(7)(e) Wis. Stats, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer or his designee in administering this ordinance. The Board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Board may authorize variances from the provisions of this ordinance which are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

(2) WHO MAY APPEAL.

Appeals to the board of appeals or adjustments may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Muskego affected by any decision of the City of Muskego.

34.14 INCORPORATION OF WISCONSIN STATUTES AND WISCONSIN ADMINISTRATIVE CODE

All Wisconsin Statutes and Wisconsin Administrative Code Sections referred to in this Chapter 34 and said Statutes and Code Sections as may be amended from time to time hereafter are hereby incorporated by reference and shall be in full force and effect as though set forth in their entirety.

34.15 ILLICIT DISCHARGES

(1) DISCHARGES. Except for storm water and other discharges specifically exempted under 34.11(3) below, no discharge, spilling or dumping of substances or materials shall be allowed into receiving water bodies or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

(2) CONNECTIONS. The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this ordinance, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of connection.

(3) EXEMPTIONS. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water:

(a) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.

(b) Discharges resulting from fire fighting activities.

(c) Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.

(4) NOTICE OF VIOLATION. Whenever the City of Muskego finds a violation of this section, the City of Muskego may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

- (a) The elimination of illicit connections or discharges;
- (b) That violating discharges, practices, or operations shall cease and desist;
- (c) The abatement or remediation of storm water pollution or contaminated hazards and the restoration of any affected property;
- (c) Any responsible party that fails to comply with a notice of violation under this section, shall be subject to further enforcement action under the provisions of 34.12.