CHAPTER 13. LAND USE REGULATIONS

TABLE OF CONTENTS

Rev. 4/16

EROSION CONTROL

SEC. 13.01 AUTHORITY.

(a) This ordinance is adopted under the authority granted by s.62.234, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s.62.23, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s.62.234 Wis. Stats., s.62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Common Council.

(c) The City hereby designates the City Engineer and Building Commissioner to administer and enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control 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.NR151.004, Wis. Adm. Code.

Ordinance 2323 A 9/7/04, Sec. 13.01 through 13.11

SEC. 13.02 FINDINGS OF FACT.

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

SEC. 13.03 PURPOSE.

It is the purpose of this ordinance 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 to waters of the state in the City of Oak Creek.

SEC. 13.04 APPLICABILITY AND JURISDICTION.

(a) APPLICABILITY.

(1) This ordinance applies to construction sites which have more than four thousand (4,000) square feet of land disturbing construction activities except as provided under Sec. 13.04(a)(2):

(2) This ordinance does not apply to the following:

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.
b. Nonpoint discharges from agricultural facilities and practices.
c. Nonpoint discharges from silviculture activities.
d. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(3) Notwithstanding the applicability requirements in Sec. 13.04(a)(1), this ordinance applies to construction sites of any size that, in the opinion of the City Engineer or Building Commissioner, 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.

This ordinance applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the City of Oak Creek.

(c) EXCLUSIONS.

This ordinance 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.

SEC. 13.05 DEFINITIONS.

(a) "Agricultural facilities and practices" has the meaning in s. 281.16(1), Wis. Stats.

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

(c) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

(d) "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 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.

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

(f) "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.

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

(h) "Land disturbing construction activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

(i) "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 ordinance as determined in accordance with Sec. 13.105(e) of this ordinance.

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

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

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

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

(n) "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

(o) "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.

(p) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

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

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

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

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

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

(r) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

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

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

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

Ordinance #2799, A 4/19/16, Sec. 13.05(i)

SEC. 13.06 TECHNICAL STANDARDS.

(a) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

(1) Applicable design criteria, standards and specifications identified in the latest edition of the Engineering Design Manual of the City of Oak Creek.

(2) Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

(3) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

Note to Users: The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion.

(b) OTHER STANDARDS. Other technical standards not identified or developed in Sec. 13.06(a), may be used provided that the methods have been approved by the City Engineer.

Ordinance #2799, A 4/19/16, Sec. 13.06(a)(3)

SEC. 13.07 PERFORMANCE STANDARDS.

(a) PERFORMANCE STANDARDS FOR CONSTRUCTION SITES UNDER ONE ACRE.

(1) RESPONSIBLE PARTY. The responsible party shall comply with this section.

(2) EROSION AND SEDIMENT CONTROL PRACTICES. 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:

(a) The deposition of soil from being tracked onto streets by vehicles.

(b) The discharge of sediment from disturbed areas into on-site 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 existing for more than 7 days.

(g) The transport by runoff into waters of the state 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 no prohibited by this subdivision.

(3) LOCATION. The BMPs shall be located so that treatment occurs before runoff enters waters of the state.

(4) IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:

(a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.

(b) Erosion and sediment control practices shall be maintained until final stabilization.

(c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(b) PERFORMANCE STANDARDS FOR CONSTRUCTION SITES OF ONE ACRE OR MORE.

(1) RESPONSIBLE PARTY. The responsible party shall comply with this section and implement the erosion and sediment control plan developed in accordance with 13.09.

(2) EROSION AND SEDIMENT CONTROL PLAN. A written site-specific erosion and sediment control plan shall be developed in accordance with Sec. 13.09 of this ordinance and implemented for each construction site.

Note to Users: *The written plan may be that specified within s. NR 216.46, Wis. Adm. Code, the erosion and sediment control portion of a construction plan or other plan.*

(3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The erosion and sediment control plan required under Sec. 13.07(b)(2) shall include the following:

(a) EROSION AND SEDIMENT CONTROL PRACTICES. 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 on-site 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 existing for more than 7 days.
7. The discharge of sediment from erosive flows at outlets and in downstream channels.
8. The transport by runoff into waters of the state 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.

9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

(b) SEDIMENT PERFORMANCE STANDARDS. In addition to the erosion and sediment control practices under Sec. 13.07(b)(3)(a), the following erosion and sediment control practices shall be employed:

1. BMPs that, by design discharge no more than 5 tons per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
2. No person shall be required to employ BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other the appropriate mechanisms.
3. Notwithstanding Sec. 13.07(b)(3(b)1., if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

(c) PREVENTIVE MEASURES. The erosion and sediment control plan shall incorporate all of the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
4. Development of spill prevention and response procedures.

(d) LOCATION. The BMPs used to comply with this section shall be locates so that treatments occurs before runoff enters waters of the state.

Note to Users: *While regional treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.*

(4) Implementation. The BMPs used to comply with this section shall be implemented as follows:

(a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in Sec. 13.07(b)(2).
(b) Erosion and sediment control practices shall be maintained until final stabilization.
(c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
(d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

Ordinance #2799, A 4/19/16, Sec. 13.07

SEC. 13.08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

(a) PERMIT REQUIRED. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the City Engineer.

(b) PERMIT APPLICATION AND FEES. At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Sec. 13.09 and shall pay an application fee established by the City as set forth in Section 3.40. By submitting an application, the applicant is authorizing the City Engineer or Building Commissioner to enter the site to obtain information required for the review of the erosion and sediment control plan.

(c) REVIEW AND APPROVAL OF PERMIT APPLICATION. The City Engineer shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

(1) Within 30 calendar days of the receipt of a complete permit application, as required by Subsection 13.08(b), the City Engineer shall inform the applicant whether the application

and plan are approved or disapproved based on the requirements of this ordinance.

(2) If the permit application and plan are approved, the City Engineer shall issue the permit.

(3) If the permit application or plan is disapproved, the City Engineer shall state in writing the reasons for disapproval.

(4) The City Engineer may request additional information from the applicant. If additional information is submitted, the City Engineer shall have 30 calendar 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 City Engineer to inform the permit applicant of a decision within 30 calendar 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.

(d) SURETY BOND. As a condition of approval and issuance of the permit, the City Engineer may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(e) PERMIT REQUIREMENTS. All permits shall require the responsible party to:

(1) Notify the City Engineer or Building Commissioner within 48 hours of commencing any land disturbing construction activity.

(2) Notify the City Engineer or Building Commissioner of completion of any BMPs within 14 days after their installation.

(3) Obtain permission in writing from the City Engineer prior to any modification pursuant to Subsection Sec. 13.09(c) of the erosion and sediment control plan.

(4) Install all BMPs as identified in the approval erosion and sediment control plan.

(5) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.

(6) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.

(7) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week, make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.

(8) Allow the City Engineer or Building Commissioner 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. Keep a copy of the erosion and sediment control plan at the construction site.

(f) PERMIT CONDITIONS. Permits issued under this section may include conditions established by the City Engineer or Building Commissioner in addition to the requirements set forth in Subsection 13.08(e), where needed to assure compliance with the performance standards in Sec. 13.07.

(g) 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 City Engineer or Building Commissioner may extend the period one or more times for up to an additional 180 days. The City Engineer or Building Commissioner may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(h) MAINTENANCE. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

SEC. 13.09 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS.

(a) EROSION AND SEDIMENT CONTROL PLAN.

(1) An erosion and sediment control plan shall be prepared and submitted to the City Engineer.

(2) The erosion and sediment control plan shall be designed to meet the performance standards in Sec. 13.07 and other requirements of this ordinance.

(3) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

a. Construction sites which have one or more acres of land disturbing construction activities.

1. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
2. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance.
3. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
5. Calculations to show the compliance with the performance standards in Sec. 13.07(b)(3)(b)(1).
6. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
7. Existing data describing the surface soil as well as subsoils.
8. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
9. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.

(b) Construction sites which have less than one acre of land disturbing construction activities.

1. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
2. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance.
3. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

(4) The erosion and sediment control plan shall include a site map.

a. The site map for construction sites which have one or more acres of land disturbing construction activities shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed one foot.
   1. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
   2. Boundaries of the construction site.
   3. Drainage patterns and approximate slopes anticipated after major grading activities.
   4. Areas of soil disturbance.
   5. Location of major structural and nonstructural controls identified in the plan.
   6. Location of areas where stabilization practices will be employed.
   7. Areas which will be vegetated following construction.
   8. Areal extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
   9. Locations of all surface waters and wetlands within one hundred feet of the construction site.

b. A plat of survey prepared by a registered land surveyor shall be used as the site

map for construction sites which have less than one acre of land disturbing construction activities and shall include the following items and shall be at a scale not greater than 40 feet per inch.

1. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
2. Boundaries of the construction site.
3. Drainage patterns and approximate slopes anticipated after major grading activities.
4. Areas of soil disturbance.
5. Location of major structural and non-structural controls identified in the plan.

(5) Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the City Engineer, structural measures shall be installed on upland soils.
c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
d. Trapping of sediment in channelized flow.
e. Staging construction to limit bare areas subject to erosion.
f. Protection of downslope drainage inlets where they occur.
g. Minimization of tracking at all sites.
h. Clean up of off-site sediment deposits.
i. Proper disposal of building and waste materials at all sites.
j. Stabilization of drainage ways.
k. Control of soil erosion from dirt stockpiles.
l. Installation of permanent stabilization practices as soon as possible after final grading.
m. Minimization of dust to the maximum extent practicable.

(6) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(b) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under Sec. 13.04(a)(3), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City Engineer. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

(c) 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 the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
(2) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
(3) The City Engineer or Building Commissioner notifies the applicant of changes needed in the plan.

Ordinance #2799, A 4/19/16, Sec. 13.09(a)(3)(a)(5)&(9)

SEC. 13.10 FEE SCHEDULE.

The fees referred to in other sections of this ordinance shall be established by the City and may from time to time be modified by ordinance. A schedule of the fees shall be available for review in the office of the City Engineer and Clerk. Fees shall not be required of the state, a county, town, village, city, school district, or other municipal corporation, a board, commission, including a commission created by contract under Section 66.0301 of the Wisconsin State Statutes, corporation or housing authority created under Sections 66.1201 to 66.1211 of the Wisconsin State Statutes or redevelopment authority created under Section 66.1333 of the Wisconsin State Statutes.

SEC. 13.11 INSPECTION.

If land disturbing construction activities are being carried out without a permit required by this ordinance, the

City may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.
Ordinance 2323 A 9/7/04, Sec. 13.01 through 13.11

SEC. 13.12 ENFORCEMENT AND PENALTIES.

(a) The City Engineer or Building Commissioner may post a stop-work order if any of the following occurs:
  (1) Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.
  (2) The erosion and sediment control plan is not being implemented in a good faith manner.
  (3) The conditions of the permit are not being met.

(b) The City Engineer or Building Commissioner shall notify the responsible party personally or by certified mail of any non-complying land disturbing activity. 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.

(c) Upon receipt of notification from the City Engineer or Building Commissioner, the responsible party shall correct work that does not comply with the erosion and sediment control plan or other provisions of this ordinance. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the City Engineer or Building Commissioner in the notice.

(d) If the violations to this ordinance are likely to result in damage to adjacent properties, the City may enter the land and take emergency actions necessary to prevent damage to adjacent properties. The costs incurred by the City plus interest and legal costs shall be specially assessed against the property pursuant to Section 66.0703 of the Wisconsin State Statutes.

(e) The City Engineer or Building Commissioner may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

(f) Any permit revocation or stop work order shall remain in effect unless retracted in writing by the City Engineer or Building Commissioner.

(g) The City Engineer or Building Commissioner is authorized to refer any violation of this ordinance, or of a stop work order issued pursuant to this ordinance, to the City Attorney for the commencement of appropriate legal proceedings.

(h) Any person, firm, association, or corporation issued a notice under Sec. 13.12(b) who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than $50.00 nor more than $500.00 for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(i) Every violation of this ordinance is deemed to be a public nuisance.

(j) The City Attorney or City Engineer or Building Commissioner or other official designated by the Council may bring an action to enjoin any public nuisance and any violation of this ordinance or any other action deemed necessary, to enforce this ordinance.

(k) If the City Engineer or Building Commissioner determines that the responsible party pursuant to this ordinance has failed to follow the erosion and sediment plan submitted and approved pursuant to Sec. 13.09 of this ordinance, or has failed to comply with schedules set forth in said erosion and sediment plan, and has received notice under Sec. 13.12(b), the City Engineer or a party designated by the City Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City Engineer shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any surety bond or irrevocable letter of credit posted pursuant to 13.08(d) of this ordinance. If such a bond has not been established, or where such a bond is insufficient to cover these costs, the costs and expenses shall be specially assessed pursuant to Section 66.0703 of the Wisconsin Statutes.

Ordinance 2323 A 9/7/04 Sec. 13.12

SEC. 13.13 APPEALS.

(a) The Council 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 Building Commissioner in administering this ordinance or where the applicant maintains owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.

(b) Upon appeal, the Council 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 provisions of the ordinance will result in unnecessary hardship; and

(c) Appeals to the Council by any aggrieved person affected by any decision of the City Engineer or Building Commissioner must be made in writing within 30 calendar days of the decision.

Ordinance # 2323 A 9/7/04, Sec. 13.13

SEC. 13.14 SEVERABILITY.

If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.
Ordinance # 2323 A 9/7/04, Sec. 13.14

LANDFILLING AND EXCAVATIONS

SEC. 13.20 DECLARATION.

The public health, welfare and safety require the licensing and regulating of excavating and filling in the City in order to preserve natural watercourses and adequate drainage, avoid flooding, protect lateral support of adjoining properties, prevent the contamination of air and water, protect property values, avoid fire hazards, and prevent erosion. For the purpose of promoting the health, welfare and safety of the public, the practice of dumping is hereby declared offensive and shall be prohibited within the City of Oak Creek.

SEC. 13.21 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

(a) **Filling.** The act of placing or depositing solid fill on land so that the existing contour is changed, or the elevation is raised.

(b) **Excavating.** The act of digging, grading or moving land or existing material on the surface of land so as to open a hole, shaft, pond or other body of water. Excavating also includes the stripping of land of its natural topsoil or surface materials for removal from the site or stockpiling.

(c) **Solid Fill.** Earth, clay, ground, gravel, natural sand, or any combination thereof.

(d) **Dumping.** The act of depositing on public or private lands any material defined by the Wisconsin Statutes as solid or hazardous waste, any noxious, chemical, toxic, nauseous or obnoxious material, including but not limited to, garbage, asphalt and building rubble, dead animals, tannery wastes, acids or brines, organic materials, combustible materials, oils, grease or any materials which tend to pollute earth, air, streams, underground or surface waters.

(e) **Non-Combustible Waste**. Inert non-combustible material, including but not limited to, brick, rubble, stone, cinders and broken concrete not exceeding one cubic foot.

(f) **Person.** Any natural person, firm, corporation, municipal corporation, partnership or any combination thereof.

(g) **Licensee.** Any natural person, firm, corporation, municipal corporation, partnership or any combination thereof to whom a special license shall have been granted by the Common Council for the purpose of filling a parcel of land owned or leased by said licensee, or to whom a permit for small scale operations shall have been issued by the Engineering Division.

(h) **Transporting.** The industry of hauling, carrying and/or conveying by any means upon streets of the City, solid fill material, intended to be deposited upon a landfill site within the City.

SEC. 13.22 LANDFILLING.

No person may fill land or excavate in the City of Oak Creek except as follows:

(a) A person may fill pursuant to a permit issued under Section 13.23.

(b) A person may fill pursuant to a shoreline erosion control license issued under Section 13.24.

(c) A person may fill or excavate, without regard to volume, for a building site pursuant to a building permit issued pursuant to Chapter 15 of this Code of Ordinances for a new building or structure or alteration or addition thereto, provided that the filling or excavation is done in accordance with the plans approved by the City Engineer and provided that failure to excavate and fill such property as shown on the approved plan shall be cause for suspension or revocation of the building permit.

(d) A person may fill pursuant to a grading plan approved by the City Engineer in accordance with the development agreement approved by the Common Council.

(e) A homeowner in a residential zoning district may landscape without a permit or license if the fill material is less than three (3) inches of topsoil spread over the entire lot not including the area occupied by buildings, and impervious, graveled or stone covered areas.

(f) The City may fill if the solid fill is from public works projects, and if the fill is placed on City-owned property subject to plans approved by the City Engineer.

(g) A person may fill pursuant to a landfill license issued prior to the effective date of this Chapter provided that the person complies with the regulations listed in Section 13.25.

(h) A person may place solid fill pursuant to a landfill license issued to allow remedial action at an existing solid waste disposal facility.

(i) A person may fill, regardless of volume, if the solid fill is from public works projects located in Oak Creek, provided the property owner obtains a landfill license, which is authorized by a three-fourths (3/4) majority of the entire Common Council for the following situations listed in order of priority:
   (1) Known or documented drainage problem that will be resolved by adding solid fill.
   (2) Properties adjacent to the public works project.
   (3) Established resident or business that requires fill for an established need other than land speculation for future development.

(j) A person may fill pursuant to a grading plan approved by the City Engineer if, the fill will substantially benefit a City public works project, provided the person obtains a landfill license or permit.

Ordinance #2730 A 7/1/14 Sec. 13.22(j)

SEC. 13.23 PERMITS.

If the filling operation involved one thousand (1,000) cubic yards or less of solid fill, and if the area to be filled is one (1) acre or less, the owner may fill the property provided that the owner shall obtain a fill permit from the City Engineer prior to commencing fill operations subject to the following regulations:

(a) The fee for a fill permit shall be as set forth in Section 3.40 with the City thereafter billing to the permittee the actual costs of review, inspection and administration of the permit.

(b) The application shall be signed by the owner and shall include the location of the premises and area to be filled, the location or source of where the fill material is coming from, an estimate of cubic yards involved in the filling, a grading and drainage plan approved by the City Engineer, prepared in conformance with the Engineering Design Manual.

(c) All permits shall be valid for one (1) year from the date of issuance.

(d) Permits may be issued by the City Engineer within fourteen (14) days of application.

(e) A weatherproof permit shall be posted on the premises subject to the filling operation at all times.

(f) The City Engineer may revoke such permit if it is determined that material other than solid fill is being placed on the land or in the event that the applicant fails to comply with any of the regulations herein.

(g) There shall be a limitation of one (1) permit issued for each lot within a period of five (5) years from the date of issuance of the previous permit.

(h) No natural drainage ways or swales shall be blocked, and fill shall be placed in a manner to prevent formation of water nuisances or insect breeding ponds.

(i) Should any fill material erode into any watercourse or onto any adjoining property, the permit holder shall remove such material at his expense upon the order of the City Engineer.

(j) Prior to filling, all topsoil shall be stripped from the land to be filled and stockpiled. Completed fill shall be covered with a layer of topsoil, the surface smoothly graded to permit mowing, and vegetation established on the surface area as soon as possible to prevent erosion or scouring of the fill area. As portions of the fill are completed, the topsoil cover shall be placed and seeded to enhance the appearance of the area and eliminate nuisances caused by windblown materials.

(k) Upon completion of filling, the owner shall submit a certification to the City Engineer that all work was performed in accordance with the approved grading and drainage plan and to provide all documentation as directed by the City Engineer.

SEC. 13.24 SHORELINE EROSION CONTROL LICENSE.

A shoreline erosion control license may be granted by the City of Oak Creek subject to the regulations in Section 13.25.

SEC. 13.25 LANDFILL LICENSE.

(a) **Excavating and/or Landfill License Application.** All applications for such license shall be filed with the City Clerk, with an application fee as set forth in Section 3.40 and thereafter referred to the Council. Once the license fee is paid and the Council has approved the application, the licensee will be billed for the actual City costs over and above the license fee for review, inspection and administration in conjunction with that license. The application for the license shall contain the following:

(1) Name, address and signature of applicant and the date of signature.

(2) Name, address and signature of land owner if he be other than the applicant, and the date of signature.

(3) Name, address and signature with date, seal and registration number of the professional engineer registered in the State of Wisconsin who will prepare the plan and who will supervise the excavating and/or filling operation, if applicable.

(4) The legal description of the property to be used as an excavating and/or landfill site.

(5) Type and character of fill intended to be deposited and locality of source.

(6) Type and character of the materials intended to be removed from the site.

(7) Location of site to which fill is to be transported. (Applicable to excavation license applications).

(8) A complete narrative description of the proposed method of operation involved in the excavating and removal of materials and/or the depositing and distributing of fill material on site, including the projected date of completion of the landfill operation.

(9) The applicant shall submit a topographic map prepared by a professional engineer registered in the State of Wisconsin, at a scale of not more than one (1) inch equals one hundred (100) feet with two (2) foot contour intervals, using City datum. Such map shall show the proposed excavation and/or fill area, existing contours to an extent of one hundred (100) feet beyond the excavation and/or fill area boundaries, proposed final contours, existing and final drainage patterns and special drainage devices, if necessary, and all other pertinent information necessary to clearly indicate the orderly development of the excavation and/or fill area.

(10) Before any new license is granted to operate an excavation and/or landfill site within the City, notice of such application shall be published in the official newspaper as a Class I notice at least ten (10) days prior to the time of hearing of the application by the Council and all residents of the City present at such hearing shall have opportunity to favor or oppose the granting of such license.

(b) **Bond.**

(1) Applications for a landfill license granted and issued after the effective date of this Chapter shall be accompanied by a cash bond or surety bond executed by a surety company licensed to do business in the State of Wisconsin in the sum of not less than Ten Thousand Dollars ($10,000.00) or in such higher amount as certified by the City Engineer to be required for the purpose of securing the City against any and all damages to City property and/or expenses the City may incur resulting from such filling or excavating operation.

(2) The Common Council may require as a condition of the renewal of a landfill license granted and issued prior to the effective date of this Chapter that a cash bond or surety bond be executed by a surety company licensed to do business in the State of Wisconsin in the sum of not less than Ten Thousand Dollars ($10,000.00) or in such higher amount as certified by the City Engineer to be required for the purpose of securing the City against any and all damages to the City property and/or expenses the City may incur resulting from such filling or excavating operation, if the Common Council determines, based upon inspection reports filed by the City Engineer, that there have been two (2) or more violations of this Chapter in a calendar year.

(c) **License Fee.** All persons receiving a landfill or excavation license shall pay an annual license fee for the first year of operation as set forth in Section 3.40.

(d) **Licensing Year.** A landfill license shall run from January 1st through the following December 31st. The Common Council may issue a license with a duration of less than one (1) year.

(e) **Renewals.** Application for renewal of a landfill license shall be filed with the City Clerk on or before December 1st. The renewal fee shall be as listed in Section 3.40 with the licensee being responsible for the city costs incurred over and above the landfill license renewal fee for the review, inspection and administration of the license for the entire year.

(f) **General Landfill Regulations and Conditions.**

(1) Landfills shall be operated and maintained in a sanitary manner, rodent free, with no emission of dust or dirt beyond its boundary lines.

(2) All materials delivered to the landfill site shall be deposited in a manner to prevent erosion into any water courses, roadside ditches or onto adjoining properties.

(3) All site activity shall be confined to the hours of 7:00 a.m. to 5:00 p.m. daily, and 7:00 a.m. to 12:00 noon on Saturdays unless otherwise approved by the City Engineer. No such activity shall be permitted on Sundays.

(4) No licensee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceful enjoyment of their properties. No equipment shall be parked or stored on a parcel of land which is subject to a landfill license, excavation license or permit unless the equipment is required for the landfill excavation operation, or unless the parking or storage of said equipment is otherwise authorized by the municipal code.

(5) Roadways to and across the landfill site shall be permitted at the landfill site. The licensee shall maintain roadways to and across the site in a smooth condition to minimize noise of delivery vehicles.

(6) No salvaging or scavenging operations shall be permitted at the landfill site.

(7) No natural drainage ways or swales shall be blocked, and fill shall be placed in a manner to prevent formation of water nuisances or insect breeding ponds.

(8) Should any fill material erode into any watercourse or onto any adjoining property, the licensee shall remove such material at his expense upon the order of the City Engineer.

(9) Any broken concrete no larger than one cubic foot, bricks or other materials that might create voids if dumped in piles shall be spread and mixed with earth or other fine material to eliminate voids and potential rodent harborages.

(10) Prior to filling, all topsoil shall be stripped from the land to be filled if deemed necessary by the City Engineer. Completed fill shall be covered with a layer of topsoil, the surface smoothly graded to permit mowing, and vegetation established on the surface area as soon as possible to prevent erosion or scouring of the fill area. As portions of the fill are completed, the topsoil cover shall be placed and seeded to enhance the appearance of the area and eliminate nuisances caused by windblown material if deemed necessary by the City Engineer.

(11) An application for a permit for a non-combustible landfill shall be filed with the Wisconsin Department of Natural Resources.

(12) Fencing or a suitable visual screen as approved by the Common Council shall be provided on all sides of the site, if deemed necessary by the City Engineer.

(13) Driveway entrances shall be located and provided with culverts and constructed as approved by the City Engineer, if deemed necessary by the City Engineer.

(14) Fill shall be progressively covered to prevent odor that may be a nuisance to adjoining owners or the public.

(15) No licensee hereunder nor the owner of the licensed property shall deny the City Engineer, a police officer or other authorized officer or employee of the City the right to entry on his property for the purpose of inspection thereof, or for the purpose of enforcing or carrying out the provisions of this Section.

(16) No licensee shall fail to obey a stop order or revocation order issued by the City Engineer or authorized City officer for a violation of this Section. The licensee may appeal such stop order or revocation order to the Council, such appeal to be filed in writing with the City Clerk within five (5) days of service thereof. If no appeal is taken within such time, the said order shall be final. Such appeal shall be heard within five (5) days, in public, at which time the licensee may be represented by counsel. The Council may affirm, reserve, or modify the order appealed from and shall do so within five (5) days of the hearing. The licensee shall not operate under his license until the appeal is decided.

(17) a. If a person holding a license or a permit fails to complete or correct his landfill operation in accordance with the terms of the license or permit or in accordance with his plan of operation, including the time schedule for completion of said landfill, or who violates any of the provisions of this Section, or who fails to comply with any of the conditions imposed by the Common Council, the City Engineer shall notify said person that the Council will hold a public hearing on his recommendation that the City complete or correct such work either by the City staff or by contract, and assess the reasonable cost thereof against the property on which located. Notice shall be given by personal service or by certified mail, at least seven (7) days prior to the hearing.

b. The licensee shall have the right to be heard and to be represented by counsel. The Council by resolution may order the work completed or corrected, and levy a special assessment or the reasonable cost thereof, which shall be a lien on the property, collected as other special assessments. The licensee may appeal to circuit court within twenty (20) days after a copy of the final resolution is served upon him, by personal service or certified mail. If not appeal is taken within such time the assessment shall be final.

(g) **Conditions.** The Common Council may condition the granting of a new landfill license or the renewal of a landfill license on such other reasonable conditions as are deemed necessary by the Common Council to carry out the purposes of this Chapter.

(h) **Inspections.** The City Engineer shall inspect all licensed landfills twice annually. The inspections shall be between April 1st and May 15th and between August 15th and September 15th. In addition to the scheduled inspections, the City Engineer, Engineering Division employees, and agents may at any reasonable time enter and inspect any licensed premises for the purpose of ascertaining the state of compliance with this Chapter. No person may refuse entry or access to any authorized representatives of the Engineering Division who requests entry for purposes of inspection. No such person may obstruct, hamper, or interfere with any such inspection

(i) **Closure.** Upon completion of the land excavating and/or landfill area the professional engineer, retained by the applicant for plan preparation under Subsection (a)(8), shall certify that the site grades in their entirety comply with the accepted plan. If applicable, said engineer or, in lieu thereof, the applicant, shall further certify that only those fill materials were deposited as stated in the application and the license granted.

(j) **Transfer of License.**

(1) <u>From Place to Place</u>. No landfill license, excavation license or permit shall be transferred from place to place.

(2) <u>From Person to Person</u>. Subject to approval by the Common Council, landfill licenses, excavation licenses and permits may be transferred from person to person as follows:

a. If the land which is subject to the license or permit is sold to the successor owner.

b. If the licensee becomes bankrupt or makes an assignment for the benefit of creditors to the trustee or receiver.

c. If the land which is subject to the license is being foreclosed upon pursuant to Wisconsin Statutes to the person commencing the foreclosure action subject to notice.

d. If the licensee dies, to the personal representative of his or her estate, or the surviving spouse if a personal representative is not appointed.

SEC. 13.26 EXCAVATIONS.

No person, firm, corporation or partnership shall excavate earth except pursuant to Section 13.22(a) through (g). This Section does not apply to any approval or permit allowing construction and requiring excavation as a part or condition of construction.

SEC. 13.27 PENALTIES.

(a) Any person violating the provisions of this Chapter shall be guilty of maintaining a nuisance and upon conviction shall be subject to a forfeiture as provided in Section 1.07. Upon conviction, the Council may suspend or revoke the license in addition to the penalty herein provided for such violation. Each days offense shall constitute a separate violation.

(b) In addition to any other penalties, if fill was placed on land without a permit or license, the owner of said land shall remove the fill, upon written notice from the City Engineer. If the owner fails to remove the fill within fifteen (15) days of receipt of written notice by the City, the City may remove the fill and assess the costs of removal as a special charge against the property pursuant to the provisions of Sec. 66.60(16)(a), Wis. Stats.

SLUDGE LANDFILLS

SEC. 13.40 SLUDGE LANDFILL LICENSES.

(a) **Definition.** "Sludge" is the solid waste material produced by the water and sewage treatment process.

(b) **Sludge Landfill License Application.**

(1) Name, address and signature of applicant.

(2) Name, address and signature of land owner if he be other than the applicant.

(3) The legal description of the property to be used as a sludge landfill site.

(4) Type and character of sludge intended to be deposited.

(5) Source and location from which sludge is to be transported.

(6) The application shall be accompanied by an application fee of Twenty Dollars ($20.00).

(7) All persons receiving a sludge landfill license shall pay an annual license fee of One Dollar ($1.00) per acre or fraction thereof with minimum fee of One Hundred Dollars ($100.00).

(8) Before any new license is granted to operate a sludge landfill site within the City, notice of such application shall be published in the official newspaper as a Class 1 notice at least ten (10) days prior to the time of hearing of the application by the Council, and all residents of the City present at such hearing shall have an opportunity to favor or oppose the granting of such license. Applications for renewal of a license shall not require an application fee or published notice and shall be filed at least twenty (20) days prior to expiration.

(c) **Plan of Operation.** No person shall establish a sludge landfill operation unless the person has obtained approval of a plan of operation from the City Engineer. The plan of operation shall contain, at a minimum, the following information:

(1) Introduction and general information including:

a. Adjacent land ownership and land use within one-half (1/2) mile of the proposed site.

b. The operator of the site.

c. Site size.

d. Proposed life expectancy of the site.

(2) Surface features of the proposed site including:

a. USGS seven and one-half (7-1/2) minute or fifteen (15) minute quadrangle map.

b. A vicinity map(s) indicating the following features within one-quarter ¼) mile of the site:

1. Property boundaries of the proposed site.
2. Predominant surface water drainage features.
3. Surface water bodies.
4. Wetlands, flood plain and shoreline areas.
5. Road and highways.
6. Industrial, commercial and residential buildings.

(3) Plot plan(s) of the landfill including:

a. Site plan indicating locations of all buildings, roadways, parking and storage areas.

b. Existing and proposed final ground surface contours.

c. Location of receiving or unloading areas and exit or material removal areas.

d. Location of proposed utilities servicing the landfill.

e. Means of limiting access such as fencing, gates, natural barriers or other methods.

f. Method of screening the landfill from the surrounding area.

(4) Building and equipment plans and drawing including:

a. Plans of all structures proposed at the landfill including foundation walls, floor elevations and other construction items.

b. Plans and drawings of supplemental construction areas, fixed or moveable equipment, electrical systems and any other drawings necessary to fully describe the facilities at the landfill.

(5) A narrative shall be prepared outlining the landfill operations and regulations. This report shall include at a minimum:

a. Consistency of landfill development with areawide solid waste plans, land use plans, or other areawide plans. Alternatives considered in the project planning phase shall be discussed.

b. Population and area to be served by the landfill and projections for increased use in the future.

c. Type and quantity of sludge to be handled and specific waste types not accepted at the site.

d. Persons responsible for structural improvements, building maintenance and daily operation and control of the facility.

e. Types of vehicles used to transport sludge into and out of the station.

f. Vehicle traffic routing at the facility and provisions for access to connecting roadways.

g. Methods of water supply and wastewater treatment.

h. Daily cleanup procedures.

i. Procedures for alternate routing of sludge during inoperable periods at the landfill.
j. A plan of the existing farm drain tiles within three hundred (300) feet of the landfill site.

SEC. 13.41 LOCATION CRITERIA.

No person shall establish, construct, operate, maintain or permit the use of property for a sludge landfill within the following areas:

(a) Within one thousand (1,000) feet of a lake or pond.
(b) Within three hundred (300) feet of a stream, river or open storm drainage system.
(c) Within one thousand (1,000) feet of any State, Interstate or U.S. Highways, unless it is screened.
(d) Within one thousand (1,000) feet of any public or private park, unless it is screened.
(e) Within any designated one hundred (100) year recurrence interval floodplain.
(f) Within designated wetlands.
(g) Within designated critical habitat areas.
(h) Within a tributary drainage area of a designated endangered plant species.
(i) Within ten thousand (10,000) feet of a jet runway, unless waivered by the Federal Aviation Administration.
(j) Within one thousand two hundred (1,200) feet of any public or private water supply well.
(k) Within one thousand two hundred (1,200) feet of any residence.
(l) Within three hundred (300) feet of any existing farm drain tiles.
(m) Not to be located on land where the ground water is less than ten (10) feet below the ground surface.
(n) No portion of the active landfill site shall have a slope exceeding six percent (6%).

SEC. 13.42 PROCEDURES FOR OPERATING A SLUDGE LANDFILL.

(a) Sludge landfills shall be operated and maintained in a sanitary manner, rodent and insect free, with no emission of dust or dirt beyond its boundary lines.
(b) All sludge delivered to the landfill site shall be deposited in a manner that would not allow this material to run off into any water courses, roadside ditches or onto adjoining properties.
(c) All landfill operations shall be confined to the hours of 7:00 a.m. to 5:00 p.m. daily, and 7:00 a.m. to 12:00 noon on Saturdays. No such activity shall be permitted on Sundays.
(d) No licensee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceful enjoyment of their properties. The licensee shall maintain roadways to and across the site in a smooth condition to minimize noise of delivery vehicles, which shall be limited to a sound level of fifty-eight (58) dBA at the boundary lines of the landfill.
(e) Roadways to and across the landfill site shall be hardsurfaced to prevent dust nuisances.
(f) The tires of the delivery trucks shall be washed off before re-entry onto the public streets.
(g) No natural drainage ways or swales shall be blocked, and sludge shall be placed and covered in a manner that prevents the formation of water nuisances or insect breeding ponds.
(h) Should any sludge be washed into any watercourse or onto any adjoining property, the licensee shall remove such material at his expense upon the order of the City Engineer.
(i) All sludge deposited shall be covered by a layer of soil at least six (6) inches thick within one (1) hour after being deposited to prevent any odor that may be a nuisance to adjoining owners or the public.
(j) Completed fill shall be covered with a layer of earth, the surface smoothly graded to permit mowing, and vegetation established on the surface as soon as possible to prevent erosion or scouring of the fill area. As portions of the fill are completed, the earth covered shall be placed and seeded to enhance the appearance of the area and eliminate nuisances.
(k) An application for a permit for a sludge landfill shall be filed with the Wisconsin Department of Natural Resources and all applicable State requirements for a sludge landfill shall be followed.
(l) Fencing or a suitable visual screen as approved by the Common Council shall be provided on all sides of the site.
(m) Driveway entrances shall be located and provided with culverts and constructed as approved by the City Engineer.
(n) One (1) well per acre of landfill site shall be installed for the purpose of monitoring the ground water quality parameters of odor, color, turbidity, pH, COD, hardness, chloride, phosphorous, potassium, alkalinity, dissolved iron, sulphates or others specified by the Department of Natural Resources. Each well shall be tested on a monthly basis with the samples being taken to the Department of Natural Resources within seventy-two (72) hours after sampling.
(o) A performance bond in the amount of Twenty-five Thousand Dollars ($25,000.00) per acre shall be posted to ensure compliance with the provisions of this Section.
(p) No sludge shall be applied during rain or on snow or frozen ground.
(q) The City of Oak Creek shall monitor the operations of the landfill with an on-site inspector during the hours of operation. The licensee shall provide suitable facilities on the site for the inspector.
(r) The owner of the landfill site shall be responsible for the long term care of the site for a period of thirty (30) years after the site is closed. This provision shall appear as a recorded deed restriction prior to the issuance of the license and running with

the land for at least the aforementioned thirty (30) year period.

(s) To offset the cost of local monitoring of the landfill operations, the licensee shall be charged a fee of Ten Dollars ($10.00) per truck entering the site for the purpose of depositing sludge.

(t) No licensee hereunder nor the owner of the licensed property shall deny the City Engineer, Building Inspector, a police officer or other authorized officer or employee of the City the right of entry on his property during normal business hours for the purpose of inspection thereof, or for the purpose of enforcing or carrying out the provisions of this Section.

(u) No licensee shall fail to obey a stop order or revocation order issued by the City Engineer, Building Inspector, or authorized City officer for a violation of this Section. The licensee may appeal such stop order or revocation order to the Council, such appeal to be filed in writing with the City Clerk within five (5) days of service thereof. If no appeal is taken within such time, the said order shall be final. Such appeal shall be heard within five (5) days, in public, at which time the licensee may be represented by counsel. The Council may affirm, reverse, or modify the order appealed from, and shall do so within five (5) days of the hearing. The licensee shall not operate under his license until the appeal is decided.

(v) If any person fails to complete or correct his landfill operation in accordance with the terms of the license and the provisions of this Section, the City Engineer shall notify the licensee that the Council will hold a public hearing on his recommendation that the City complete or correct such work, either by the City staff or by contract, and assess the reasonable cost thereof against the property on which located. Notice shall be given by personal service or by certified mail, at least seven (7) days prior to the hearing. The licensee shall have the right to be heard and to be represented by counsel. The Council by resolution may order the work completed or corrected and levy a special assessment, for the reasonable cost thereof, which shall be a lien on the property, collected as other special assessments. The licensee may appeal to circuit court within twenty (20) days after a copy of the final resolution is served upon him, by person service or certified mail. If no appeal is taken within such time, the assessment shall be final.

SEC. 13.43 PENALTIES.

Any person violating any provision of this Subchapter shall be guilty of maintaining a nuisance and upon conviction shall be subject to a forfeiture as prescribed in Section 1.07, and upon failure to pay such forfeiture may be imprisoned in the Milwaukee County House of Corrections not exceeding ten (10) days. Upon conviction, the Council may suspend or revoke the license in addition to the penalty herein provided for such violation. Each day's offense shall constitute a separate violation.

SEC. 13.44 TRANSFER OF LICENSE.

No license issued pursuant to this Section shall be transferred or inure to the benefit of any person other than to whom the license was issued. Such license shall not be transferable from one (1) premises to another.

DRAINAGE

SEC. 13.60 DRAINAGE.

(1) Natural Watercourse.

(a) A natural watercourse is a stream shown and defined as such on the following United States Department of Interior geological survey maps, 7.5 minute series (topographic):

1. Franksville quadrangle, Wisconsin
2. Racine north quadrangle, Wisconsin
3. Greendale quadrangle, Wisconsin
4. South Milwaukee quadrangle, Wisconsin

These United States geological survey maps are dated 1958 and are on file in the office of the City Engineer.

(b) No person shall deliberately or by negligence obstruct or fill a natural watercourse. Such natural watercourse may be altered, if a permit is first obtained from the City Engineer. Such permit may be issued upon his determination that the flow of water will not be substantially retarded and there will be no adverse effect upon the public health, safety or welfare.

(c) The City Engineer may remove any obstructions from natural watercourses as hereinafter provided.

(2) Drainageways.

(a) A drainageway means any ditch, channel, swale, creek or pipe line, whether natural or manmade, other than a natural watercourse.

(b) No person shall deliberately or by negligence obstruct or fill a drainageway without first obtaining a permit from the City Engineer. Such permit may be withheld for a period not to exceed 90 days for the purpose of providing alternative drainage, by storm sewers or other means.

(c) The City Engineer may remove from drainageways any obstructions or fill installed without a permit.

(3) Drainage Structures. No person shall construct, reconstruct, alter, repair or install any drainage structure in any natural watercourse or drainageway without obtaining a permit from the City Engineer. Issuance of such permit in a natural watercourse shall be predicated upon a finding by the City Engineer that such drainage structure does not substantially retard the flow of water, and does not adversely affect the public health, safety or welfare. In a drainageway, issuance of such permit shall be predicated upon providing alternative drainage by storm sewer or other means.

(4) Permit.

(a) Any person seeking a permit to alter a natural watercourse or install a drainage structure therein, or to fill or obstruct a drainageway, or to construct, reconstruct, alter, repair or install any drainage structure in any natural watercourse or drainageway shall fill out a written application with the City Engineer, setting forth and submitting:

1. The name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.
2. The location of the proposed work.
3. The plans and specifications for such work in triplicate. This shall include the tributary drainage area and the design of the structures or alteration, and such other information as the City Engineer shall determine to be necessary to process the application.

(b) The permit fee shall be $10.00

(5) Procedure for Removal of Obstructions, Fill and Unauthorized Structures.

(a) When a natural watercourse becomes obstructed or filled so that the natural flow of water is retarded by the negligence or deliberate action of the owner; or when a drainageway is obstructed by the negligence or deliberate action of the owner without a permit; or when a drainage structure is constructed, reconstructed, altered, repaired or installed without a permit in either a natural watercourse or a drainageway, the City Engineer shall serve a written order by certified mail on the owner demanding removal within a reasonable time, as specified therein. The owner may appeal to the Council within 10 calendar days of mailing of the order. If appeal is not taken by filing in writing with the City Clerk within the said 10 days, the order shall be final. The Council shall grant a hearing on such appeal. The Council shall affirm, reverse or modify the removal order. The Council's decision shall be reviewable by certiorari within 30 days of service on the owner, or it shall be final.

(b) If the owner neglects or refuses to comply with a removal order after his appeal period has expired, the City Engineer shall either by the Department of Public Works or by private contract let in accordance with the bid requirements of the Wisconsin Statutes, cause the removal to be made.

(c) When a natural watercourse or drainageway becomes obstructed from natural causes, the City Engineer shall serve the owner with a written notice that he will enter the said lands for the purpose of removal, at the expiration of a reasonable time therein specified. He shall then enter upon the lands and cause the removal to be made by public agency or private contract, let in accordance with law.

(6) Entry on Lands. City officers and employees and contractors retained by the City for that purpose may enter any lands for the purpose of carrying out a removal order.

(7) No Interference. No person shall interfere with or impede any City officer, employee or contractor in carrying out a removal order.

(8) Cost of Removal. The reasonable cost of carrying out a removal order under sub. 5(a) and (b) shall be charged to the owner by the Council after a public hearing. Notice of said hearing shall be given by certified mail to the owner indicated on the City tax roll, at least 7 days prior to the date thereof. The cost so charged shall become a special assessment on the owner's land which was involved in said removal. Said assessment shall be levied and collected as a special tax, subject to the appeal provisions of Sec. 66.60, Wis. Stats.

(9) Emergency. Where drainage obstruction in a natural watercourse or drainageway is determined by the City Engineer to constitute an immediate danger to the public health, safety or welfare, he shall proceed forthwith to enter upon the lands involved and to have the obstruction removed, either by public agency or by contract. If such obstruction was caused by the negligence or deliberate act of the owner, and not be natural causes, the reasonable cost of removal shall be charged and assessed as provided in sub. (8).

STORM WATER RUNOFF

SEC. 13.100 AUTHORITY

(a) This ordinance is adopted by the City under the authority granted by Sec. 62.234 Wis. Stats. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under Sec. 62.23 Wis. Stats. Except as specifically provided for in Sec. 62.234 Wis. Stats, Sec. 62.23, Wis. Stats applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

(c) The City hereby designates the City Engineer to administer and enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by WPDES Storm Water Permits issued by the DNR under Sec. 283.33 Wis. Stats.

SEC. 13.101 FINDINGS OF FACT

(a) The City 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, and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled storm water runoff can:

1. degrade physical stream habitat by increasing streambank erosion, increasing streambed scour, diminishing groundwater recharge, and diminishing stream base flows;
2. diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing the export of nutrients and other urban pollutants;
3. alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
4. reduce the quality of groundwater by increasing pollutant loading;
5. threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainageways, and other minor drainage facilities;
6. threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes;
7. undermine flood plain management efforts by increasing the incidence and levels of flooding.

SEC. 13.102 PURPOSE AND INTENT

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

(b) INTENT. The City recognizes that a method of addressing storm water management problems and needs is through the preparation of comprehensive storm water management plans for subwatershed areas which are designed to meet the purpose and intent of this ordinance. Accordingly, the standards for onsite storm water management measures set forth in Section 13.106 do not apply in areas where such plans have been prepared and approved by the City. In those areas for which approved storm water management plans have been prepared, all land development activities will include storm water management measures set forth in those approved storm water management plans. It is the general intent of the City to achieve its purpose through:

1. managing long-term, construction site erosion and post-construction storm water discharges from land development activities;
2. providing two options for developing storm water management requirements including:
   a. application of generic requirements in this ordinance on a site-by-site basis in areas for which no approved storm water management plan exists; and
   b. implementation of management practices set forth in the City Storm Water Management Master Plan or any other detailed storm water management plan approved by the City.

SEC. 13.103 DEFINITIONS

(a) "Agricultural land use" means use of land for planting, growing, cultivating, and harvesting of crops for human or livestock consumption, and pasturing or yarding of livestock.

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

(c) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

(d) "Business day" means a day which the offices of the City Engineer are routinely and customarily open for business.

(e) "City" means City of Oak Creek.

(f) "Common plan of development or sale" 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.

(g) "Council" means the Common Council of the City of Oak Creek.

(h) "Critical duration storm" means that storm that produces the highest peak rate of runoff. To determine the critical duration storm, a series of rainfall depths and durations are run in an iterative process until the highest peak is found.

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

(j) "DNR" means the Wisconsin Department of Natural Resources.

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

(l) "Detention basin" means a pond designed to store water after a rainstorm which releases the runoff water at a controlled rate.

(m) "Discharge volume" means the quantity of runoff discharged from the land surface as the result of a rainfall event.

(n) "Drainage Easement" means a legal agreement to allow water to flow across a piece of property. The easement establishes specific requirements for activities that can and cannot take place in the easement zone.

(o) "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.

(p) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.

(q) "Exceptional resource waters" means waters listed in s.NR102.11, Wis. Adm. Code.

(r) "Fee in lieu" means a payment of money to the City in place of meeting all or part of the storm water performance standards required by the ordinance.

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

(t) "Groundwater enforcement standard" means a numerical value expressing the concentration of a substance in groundwater which is adopted under Sec. 160.07 Wis. Stats., and Sec. NR140.10 or Sec. 160.09 Wis. Stats, and Sec. NR 140.12.

(u) "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.

(v) "Infill area" means an undeveloped area of land located within existing development.

(w) "Infiltration" means the process by which rainfall or surface runoff percolates or penetrates into the underlying soil.

(x) "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.

(y) "Landowner" means any person holding title to or having an interest in land.

(z) "Land development activity" means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface, or means the construction, reconstruction or expansion of buildings; roads; parking lots; paved storage areas; and similar facilities—excluding agricultural land use.

(aa) "Land disturbing construction activity" means any man-made change of the land surface including removing vegetative cover; excavating; filling; and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.

(bb) "Low flow channel" means a small channel located within a waterway used to concentrate flow during small storms. The purpose of a low flow channel is to maintain adequate water depth for aquatic organisms and needed scour velocities to prevent sediment buildup.

(cc) "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.

(dd) "Maintenance Bond" means a bond, which guarantees that the permit holder will perform needed maintenance outlined in the permit. The bond protects the City against loss due to the inability or refusal of the permit holder to perform to the conditions of the permit.

(ee) "Major drainage systems" means a drainage system of open channels and overland flow paths that carry storm water during large rainfall events, typically with greater than a 10-year recurrence interval.

(ff) "maximum extent practicable" means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with Sec. 13.105(e) of this ordinance.

(gg) "Minor drainage system" are those components of the drainage system designed to carry small rainstorms. The minor drainage system is typically made up of roadside ditches and storm sewers.

(hh) "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.

(ii) "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.

(jj) "Off-site" means located outside the property boundary described in the permit application for land development activity.

(kk) "On-Site" means located within the property boundary described in the permit application for the land development activity.

(ll) "Ordinary high-water mark" has the meaning given in s. NR115.03(6), Wis. Adm. Code.

(mm) "Outstanding resource waters" means waters listed in s. NR102.10, Wis. Adm. Code.

(nn) "Peak flow discharge rate" means the maximum rate at which a unit volume of storm water is discharged.

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

(pp) "Performance Bond" means a bond which guarantees that the permit holder will perform to the terms of the agreement. The bond protects the City against loss due to the inability or refusal of the permit holder to perform to the conditions of the permit.

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

(rr) "Permit" means a written authorization issued by the City to the applicant to conduct land development activities.

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

(tt) "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.

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

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

(ww) "Post-construction storm water discharge" means any storm water discharged from a site following the completion of land disturbing construction activity and final site stabilization.

(xx) "Post-development condition" means the extent and distribution of land cover types anticipated to occur under conditions of full development that will influence rainfall runoff and infiltration.

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

(zz) "Pre-treatment" means the treatment of storm water prior to its discharge to the primary storm water treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.

(aaa) "Preventive action limit" has the meaning given in s.NR140.05(17), Wis. Adm. Code.

(bbb) "Recreational trail" means a path that is distinctly set apart from a roadway, street or sidewalk; designed for activities such as jogging, walking, hiking, bird-watching, bicycle riding, roller skating or other recreation not involving the use of motorized vehicles; and not a sidewalk according to Sec. 340.01(58), Wis. Stats.

(ccc) "Residential development" means that which is created to house people, including the residential dwellings as well as all attendant portions of the development including lawns, driveways, sidewalks, garages, and access streets. Residential development is limited to single family and two family residences.

(ddd) "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 management practices and BMPs.

(eee) "Riparian Areas" means an area of land directly adjacent to and influenced by water. An ecosystem that is transitional between land and water ecosystems. Riparian areas usually have visible vegetative or physical characteristics reflecting the influence of water. River sides, lake borders, and marshes are typical riparian areas.

(fff) "Runoff" means the rainfall, snowmelt, or irrigation water flowing over the ground surface.

(ggg) "Site" means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.

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

(iii) "Storm water management plan" means a document that identifies what actions will be taken to reduce storm water quantity and pollutant loads from land development activity to levels meeting

the performance standards of Section 13.106 of this ordinance.

(jjj) "Storm water management practice" means a structural or non-structural device designed to temporarily store or treat storm water runoff in order to mitigate flooding, reduce pollution and provide other amenities.

(kkk) "Storm water runoff" means that portion of the precipitation falling during a rainfall event that runs off the surface of the land and into the natural or artificial conveyance or drainage network.

(lll) "Structural measure" means source area practices, conveyance measures, and end-of-pipe treatment that are designed to control storm water runoff pollutant loads, discharge volumes, and peak flow discharge rates.

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

(nnn) "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.

(ooo) "Type II Storm" is a theoretical rainfall storm distribution developed by the Natural Resources Conservation Service (NRCS) to represent typical storms experienced in the Midwest. The storm distribution is found in NRCS Technical Report TR55.

(ppp) "Wet detention pond" is a detention basin with a permanent pool of water, often designed to trap particulate pollutants.

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

(rrr) "Wisconsin Pollution Discharge Elimination System (WPDES) Storm Water Permit" means a permit issued by the Wisconsin Department of Natural Resources under Sec. 283.33 Wis. Stats. that authorizes the point source discharge of storm water to waters of the State.

Ordinance #2322 A 9/7/04 Sec.13.103
Ordinance #2800 A 4/19/16 Sec. 13.103(ff)

SEC. 13.104 APPLICABILITY AND JURISDICTION

(a) APPLICABILITY. This ordinance applies to:

1. Land development activity that creates an increase in impervious surface, porous pavement or vegetated roof of 0.5 acres or more.
2. Land development activities, regardless of size of the development, which in the opinion of the City are likely to result in storm water runoff which exceeds the capacity of the existing drainage facilities or receiving body of water, which causes undue channel erosion, which increases water pollution by scouring or the transportation of particulate matter, or which endangers downstream property or public safety.
3. Land development activities that create an impervious surface area of less than 0.5 acres if such activities are part of a larger common plan of development or sale even though multiple separate and distinct land development activities may take place at different times on different schedules.
4. Land development activity that includes demolition or construction during redevelopment that disturbs an area larger than 2 acres.

(b) JURISDICTION. This ordinance applies to land development activities, and land disturbing construction activities within the boundaries of the City of Oak Creek.

(c) EXEMPTIONS. This ordinance does not apply to:

1. Land development activities conducted or contracted for by any state agency, as defined under Sec. 227.01(l) 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 281.33(2), Wis. Stats.

Ordinance #2322 A 9/7/04 Sec.13.104(c)2, 13.104(c)3
Ordinance #2624 A 5/3/11 Sec. 13.104(a)1, 13.104(a)4

SEC. 13.105 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS

(a) Storm water management practices, storm sewers and open channels required to comply with this ordinance shall meet the design criteria, standards and specifications in the latest edition of the Engineering Design Manual of the City of Oak Creek.

(b) The following methods shall be used in designing the water quality and infiltration components of storm water management practices needed to meet the water quality standards of this ordinance:

1. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR151, Wis. Adm. Code.
2. Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the City of Oak Creek.
3. In this ordinance, the following year and location has been selected as average annual rainfall: Milwaukee, 1969 (Mar. 28-Dec. 6).

(c) Unless prior authorization is given by the City Engineer, the following methods shall be used for making hydrologic calculations and for designing

storm water management practices to meet the requirements of this ordinance.

1. All hydrologic and hydraulic design calculations required under this section shall be based on the principles of the SCS curve method document entitled "Urban Hydrology for Small Watersheds" (Technical Release 55) published by Natural Resources Conservation Service (NRCS), United States Department of Agriculture, June 1992, or other methods acceptable to the City Engineer. Computer models that may be used include:
    a. U.S. Army Corps of Engineers HEC-1.
    b. U.S. Army Corps of Engineers HEC-HMS.
    c. Natural Resources Conservation Service TR-20.
    d. Natural Resources Conservation Service TR-55.
    e. U.S. EPA's SWMM

(d) Rainfall depths and distribution used in hydrologic calculations and for designing storm water management practices to meet the requirements of this ordinance shall be as specified in Chapter 4 of the Engineering Design Manual.

(e) Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City Engineer's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

Ordinance # 2322 A 9/7/04 Sec. 13.105(b)
Ordinance #2800 A 4/19/16 Sec. 13.105(d), (e)

SEC. 13.106 STORM WATER MANAGEMENT STANDARDS

(a) DRAINAGE SYSTEM REQUIREMENTS FOR NEW DEVELOPMENT AND REDEVELOPMENT. The developer shall install all the storm drainage facilities indicated on the plans required in Subsection 13.108 of this ordinance necessary to serve, and resulting from, the phase of the land development.

1. A drainage system shall be designed and constructed by the developer to provide for the proper drainage of the surface water of the land division and the drainage area of which it is a part. Design shall be in conformance with Chapter 4 and 5 of the Engineering Design Manual.
2. Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
3. Any storm water drainage system will be separate and independent of any sanitary sewer system. Storm sewers, where utilized, shall be designed in accordance with all governmental regulations and Chapter 5 of the Engineering Design Manual. A copy of design computations for engineering capacities shall accompany plans submitted by the petitioner's engineer.
4. Storm water drainage systems shall be designed to utilize the natural drainage and storage capabilities of the site to the fullest extent practicable. Storm water drainage systems shall be designed to provide an economical gravity flow drainage system.
5. Storm water drainage systems shall be designed to utilize the collector and land access streets as open runoff channels during major storm events without flooding adjoining building sites. The streets will be supplementary to the minor storm water drainage system.
6. Bridges and Culverts. All new and replacement culverts and bridges over waterways shall be designed so as to accommodate, according to the categories listed below, the designated flood event without over topping the related roadway or railway track:
    a. Minor and collector streets used or intended to be used primarily for access to abutting properties: a 10-year recurrence interval flood discharge.
    b. Arterial streets and highways, other than freeways and expressways, used or intended to be used primarily to carry heavy volumes of traffic: a 50-year recurrence interval flood discharge.
    c. Freeway and expressway: a 100-year recurrence interval flood discharge.
    d. Railways: a 100-year recurrence interval flood discharge.

    The depth of flow over the top of minor, collector, and arterial streets and highways shall not exceed six inches during the 100-year recurrence interval flood discharge.

    Bridges and culverts shall be designed to facilitate fish passage through elimination of hydraulic drops, maintenance of low flow channels, and minimization of excess stream enclosures.

7. Street Drainage. All streets shall be provided with an adequate storm drainage system. The street storm drainage system shall serve as the minor drainage system and shall be designed to carry street, adjacent land and building storm water drainage. Storm water shall not be permitted to be run into the sanitary sewer system within the proposed subdivision. In order to provide an acceptable level of access to property and traffic service, the drainage system shall be designed to provide two clear lanes of moving traffic on arterial streets and one 10-foot lane for moving traffic on collector and land access streets during the 10-year critical duration storm. Temporary accumulations of storm runoff from ponding or flowing water, in or near minor system components, shall be permitted during events beyond the ten year event providing such accumulations do not encroach on any traffic lane of any collector or arterial street, nor be more than 6-inches deep as measured at the centerline of any local street.
8. Off-Street Drainage. The design of the off-street major drainage system shall include the entire watershed affecting the land development and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the developer shall make provisions for providing an easement pursuant to Subsection 13.106(b) of this ordinance, to provide for the future maintenance of said system.
9. Drainage Piping Systems. Unless otherwise approved by the City Engineer, all drainage piping shall conform to the requirements in Chapter 5 of the Engineering Design Manual.
10. Agricultural Drains. Agricultural drain tiles which are disturbed during construction shall be restored, reconnected or connected to public storm drainage facilities.
11. Open Channel Systems. Where open channels are utilized in either the minor or major drainage system, they shall be designed so as to minimize maintenance requirements. Drainage easements or dedications shall be utilized to accommodate open channels provided with adequate access by the City for maintenance of drainage capacity. Side slopes shall be in conformance with the requirements of roadside ditches in Chapter 5 of the Engineering Design Manual.
12. Major Drainageways. Major drainageways should be designed with low flow channels to maintain increased stream velocity to reduce sedimentation in the stream channels and accompanying nuisance vegetation.
13. Protection of Drainage Systems. The developer shall adequately protect all ditches to the satisfaction of the City Engineer. Open channels shall be seeded and erosion matted, sodded or riprapped based upon recommendations made in the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR151, Wis. Adm. Code.

(b) DRAINAGE EASEMENTS. Where a land division is traversed by a watercourse, drainageway, channel or stream:

1. There shall be provided a storm water easement or drainage right-of-way conforming substantially to the dimensions of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
2. The watercourse, drainageway, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured. When channels are relocated, a storm water easement or drainage right-of-way conforming to the dimensions of the relocated watercourse, and such further width for construction, or both, will be provided. For state designated navigable streams, such relocations shall only be in accord with a permit issued by the DNR; or
3. Wherever possible, drainage shall be maintained in an easement by an open channel with vegetated banks and adequate width for maximum potential volume flow. In all cases, such easements shall be wide enough to convey the 10-year critical duration storm for the minor drainage system, and the 100-year critical duration storm for the major drainage system. The drainage easement under all circumstances shall not be less than thirty (30) feet in width.

(c) STORM WATER DISCHARGE QUANTITY. 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. Infiltration of storm water runoff from driveways, sidewalks, rooftops, and landscaped areas shall be incorporated to the maximum extent practical, as defined by the City Engineer, to provide volume control in addition to control of peak flows.

All land development activities subject to this Ordinance shall establish on-site management practices to:

1. Limit the runoff leaving the site to a release rate of less than 0.40 cfs/ac for the one (1) percent probability event (100-year recurrence interval) and less than 0.15 cfs/ac for the fifty (50) percent probability event (2-year recurrence interval), or
2. If demolition or construction during redevelopment will disturb an area larger than 2 acres, the runoff release rate shall be reduced by the amount listed in the following table for the one (1) percent probability event (100-year recurrence interval) and the fifty (50) percent probability event (2-year recurrence interval):

Area Disturbed by Demolition or Construction	Reduction to the Existing Runoff Release Rate as of October 25, 2010
Between 2 acres and 3.5 acres	10%
From 3.5 to 5 acres	15%
Greater than 5 acres	20%

(d) TOTAL SUSPENDED SOLIDS. BMPs shall be designed, installed and maintained to control total suspended solids (TSS) carried in runoff from the post-construction site as follows:

Note to Users: *Under s. 281.33 (6)(a)2., Wis. Stats., the municipality may enact and enforce provisions of an ordinance that are stricter than the TSS performance standards in NR 151, Wis. Adm. Code, if the stricter provisions are necessary to comply with federally-approved total maximum daily load requirements.*

1. BMPs shall be designed in accordance with the following TSS Reduction Standards Table or to the maximum extent practicable as provided in Sec. 13.106(d)2. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

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

2. Maximum Extent Practicable. If the design cannot meet a total suspended solids reduction performance standard of the TSS Reduction Standards Table, 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.

Note to Users: *Pollutant loading models such as DETPOND, WinSLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Use the most recent version of the model and the rainfall files and other parameter files identified for Wisconsin users unless directed otherwise by the regulatory authority.*

3. Off-Site Drainage. When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

(e) DISCHARGE TO WETLANDS. Wetlands shall be protected from the damaging modifications and adverse changes in runoff quality and quantity associated with new developments. Wetlands delineated in new developments should be classified into Category I, II or III according to guidelines established in the Engineering Design Manual. To protect the quality of wetlands in the City, the following criteria will be followed:

1. Increased volumes of storm water shall not be discharged to high quality wetlands classified as Category III wetlands in the City of Oak Creek Storm Water Master Plan or subsequent City approved studies. Category III wetlands have vegetation and wildlife communities that cannot tolerate any discharge of sediment or pollutants, and cannot tolerate any changes in water levels.
2. Untreated storm water shall not be discharged to wetlands classified as Category II wetlands in the City of Oak Creek Storm Water Master Plan or subsequent City approved studies. Category II wetlands have vegetation and wildlife communities that cannot tolerate discharges of sediment or pollutants without becoming degraded. Discharge of treated storm water is allowed to Category II wetlands provided that inundation of the vegetation is for periods of less than one week, and that no dredging in the wetland takes place.
3. Discharge of pretreated storm water is allowed to wetlands classified as Category I wetlands identified in the City of Oak Creek Storm Water Master Plan or subsequent City approved studies. Category

I wetlands have vegetation that is not impacted by the discharge of pollutants or impacted by changing water levels. Category I wetlands can be used for storm water storage provided the water is pretreated for sediment removal, and that no dredging in the wetland takes place.

(f) EXCEPTIONS. The requirements for on-site storm water management practices established in Sections 13.106 (c) and (d) do not apply to:

1. Areas which are determined by the City Engineer to be covered by an approved storm water management plan, which was developed and approved as an alternative storm water management planning approach to carrying out on-site measures consistent with the purpose and intent of this ordinance. In such cases, the recommendations of the approved storm water management plan shall be applied either through the installation of storm water management provisions recommended to be included on the development site being considered and/or through the payment of a fee as set forth in Sec. 13.106 (g). These minimum requirements may also be waived in whole or in part by the Council upon written request of the applicant, provided provisions are made to manage storm water by an off-site facility. This requires that the off-site facility is in place, is designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by application of the standards of this ordinance.
2. Residential infill if:
   a. The site is five acres or less; and
   b. The development is exclusively residential; and
   c. The net increase in the area of impervious surface is less than 20% of the site; and
   d. Each boundary of the site is contiguous to:
      1. Sites that contain earlier development served by sanitary sewers, streets, or public water supply when the government unit receives the plans for the new development; or
      2. Parkland, other public land, a utility right-of-way, or a watercourse.
3. Areas where the impervious surface after development will be 5% or less of the total area of the site.
4. Recreational trails if:
   a. The trail is less than or equal to 10 feet in width and
   b. Has a continuous pervious buffer at least 5 feet wide on each side, disregarding interruption by streets, driveways, or other impervious surfaces crossing the trail.

(g) FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT PRACTICES. If the Council waives all or part of the minimum on-site storm water management requirements under Sec. 13.106(c) and (d), or where the waiver is based on the provision of adequate storm water facilities provided by the City downstream of the proposed development, the applicant shall be required to pay a fee in an amount determined by the Council. In setting the fee for land development projects, the Council shall consider an equitable distribution of the cost of land, engineering design, construction, and maintenance as set forth in Section 66.0617 of the Wisconsin Statutes.

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

1. Natural topography and land cover features such as natural stream channels, flood plain, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
2. Emergency overland flow for all storm water facilities shall be considered to prevent exceeding the capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(i) INFILTRATION.

1. Best Management Practices. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
   a. *Low imperviousness*. For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.

b. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

c. *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

2. Pre-development. The pre-development condition shall assume "good hydrologic conditions" for the appropriate land covers and not exceed the runoff curve numbers established in Chapter 4 of the Engineering Design Manual.

3. Source Areas.

a. *Prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in Sec. 13.106(i)6.:

i. Areas associated with a tier 1 industrial facility identified in NR 216.21 (2)(a), Wis. Adm. Code, including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.

ii. Storage and loading areas of a tier 2 industrial facility identified in NR 216.21 (2)(b), Wis. Adm. Code.

Note to Users: *Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.*

iii. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

b. *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 is optional:

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

ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under par a.

iii. Except as provided under Sec. 13.106(n), redevelopment post-construction sites.

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

v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.

4. Location of Practices.

a. *Prohibitions*. Infiltration practices may not be located in the following areas:

i. Areas within 1000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.

ii. Areas within 400 feet of a community water system well as specified in NR 811.16(4), Wis. Adm. Code or within the separation distances listed in NR 812.08, Wis. Adm. Code for any private well or non-community well 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 NR 720.03 (2), Wis. Adm. Code, are present in the soil through which infiltration will occur.

b. *Separation distances.*

i. 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 the following table:

Separation Distances and Soil Characteristics		
Source Area	**Separation Distance**	**Soil Characteristics**
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	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	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

ii. Notwithstanding Sec. 13.106(i)4.b. applicable requirements for injection wells classified under NR 815, Wis. Adm. Code shall be followed.

c. *Infiltration rate exemptions*. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:

i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.

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.

5. Alternate Use. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or 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.

6. Groundwater Standards.

a. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

b. Notwithstanding Sec. 13.106(i)6.a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

7. Pretreatment. 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 Sec. 13.106(i)6. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

8. Maximum Extent Practicable. Where the conditions of Sec. 13.106(i)3, and Sec. 13.106(i)4 limit or restrict the use of infil-

tration practices, the performance standard of Sec. 13.106(i) shall be met to the maximum extent practicable.

(j) PROTECTIVE AREAS.

1. Definition. In this section, "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 section, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.
   a. For outstanding resource waters and exceptional resource waters, 75 feet.
   b. For perennial and intermittent streams identified on a U.S. 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 wetlands not subject to Sec. 13.106(j)1.e. or 13.106(j)1.f., 50 feet.
   e. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
   f. 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 wetland dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
   g. In Sec. 13.106(j)1.d., Sec. 13.106(j)1.e. and 13.106(j)1.f., 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 NR 103.03, Wis. Adm. Code.
   h. Wetland boundary delineation shall be made in accordance with NR 103.08 (1m), Wis. Adm. Code. This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
   i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
   j. Notwithstanding Sec. 13.106(j)1.a. through 13.106(j)1.i. the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.

Note to User: *A stream or lake is not eligible for a lower protective area width even if contiguous to a less susceptible wetland.*

2. Applicability. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to 13.106(j)4.
3. Requirements. The following requirements shall be met:
   a. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, a minimum 10 feet wide protective area (without impervious surface) shall be provided and the storm water management plan shall contain a written, site-specific explanation.
   b. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. 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.

Note to Users: *It is recommended that seeding of non-invasive vegetative cover be used in the protective areas. Some invasive plants that should not be used are listed in NR 40, Wis. Adm. Code. Flood and drought-tolerant vegetation that can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover may be measured using the line transect method described in the University of Wisconsin extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".*

c. BMPs such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.

Note to Users: *Other laws, such as ch. 30, Wis. Stats., and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval processes may apply in the protective area.*

4. Exemptions. This section does not apply to any of the following:
   a. Except as provided under Sec. 13.106(n), redevelopment post-construction sites.
   b. In-fill development areas less than 5 acres.
   c. Structures that cross or access surface water such as boat landings, bridges, and culverts.
   d. Structures constructed in accordance with s. 59.692 (1v), Wis. Stats.
   e. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local ordinance requirements for total suspended solids and peak flow reduction, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note to Users: *A vegetated protective area to filter runoff pollutants from post−construction sites described in par. (e) is not necessary since the runoff at that location is treated prior to entering the surface water. Other practices necessary to meet the requirements of this section, such as a swale or pond, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state.*

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

(l) ALTERNATE REQUIREMENTS. The City Engineer may establish storm water management requirements more stringent than those set forth in Section 13.106 if the City Engineer determines that the capacity of downstream drainage systems may be exceeded or an added level of protection is needed to protect sensitive resources.

(m) SWALE TREATMENT FOR TRANSPORTATION FACILITIES.
   1. Requirement. Except as provided in Sec. 13.106(m)2., transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of local ordinance requirements for total suspended solids control, and infiltration, if the swales are designed to do all of the following or to the maximum extent practicable:
      a. Swales shall 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.

      Note to Users: *It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.*

      b. Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Sale Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Infiltration Swales", dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.
   2. Other requirements.
      a. Notwithstanding Sec. 13.106(m)1., the City Engineer may, consistent with water quality standards, require that other requirements, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2,500 and where the initial surface water of the

state that the runoff directly enters is one of the following:

i. An outstanding resource water.
ii. An exceptional resource water.
iii. Waters listed in section 303 (d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to non-point source impacts.
iv. Water where targeted performance standards are developed pursuant to NR 151.004, Wis. Adm. Code.

b. The transportation facility authority shall contact the City Engineer to determine if additional BMPs beyond a water quality swale are needed under this subsection.

(n) MAINTENANCE OF EFFORT. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151, Wis. Adm. Code in effect on or after October 1, 2004, 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 ordinance, whichever is more stringent.

Ordinance 2322 A 9/7/04 Sec. 13.106(a)13, 13.106(i), (j), (k), (l)
Ordinance 2624 A 5/3/11 Sec. 13.106(c)2
Ordinance 2800 A 4/19/16 Sec. 13.106(i), (j), (m), (n)

SEC. 13.107 CONSTRUCTION PERMITTING REQUIREMENTS AND PROCEDURES

(a) PERMIT REQUIRED. No land owner or land operator may undertake a land development activity subject to this ordinance without receiving a permit from the City Engineer prior to commencing the proposed activity.

(b) PERMIT APPLICATION AND FEE. Unless exempt from the provisions of this ordinance, any land owner or operator desiring a permit shall submit to the City Engineer a permit application made on a form provided by the City Engineer for that purpose.

1. A permit application must be accompanied by the following in order that the permit application be considered by the City Engineer; a storm water management plan; a maintenance agreement; any payment of "fees in lieu," as provided for under Sec. 13.106(g); and a non-refundable permit administration fee.
2. The storm water management plan shall meet the requirements of Sec. 13.108 of this ordinance, the maintenance agreement shall meet the requirements of Sec. 13.109 of this ordinance, and fees shall be those established by the City as set forth in Section 3.40.

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

1. Within 30 calendar days of the receipt of a complete permit application, including all documents as required by Sec. 13.108, the City Engineer shall inform the applicant in writing whether the application, plan, and maintenance agreement are approved or disapproved. The City Engineer shall base the decision on requirements set forth in Sec. 13.105, Sec. 13.106 and Sec. 13.108 of this ordinance and the Engineering Design Manual.
2. If the storm water permit application, plan, and maintenance agreement are approved, the City Engineer shall issue the permit.
3. If the storm water permit application, plan, or maintenance agreement is disapproved, the City Engineer shall detail in writing the reasons for disapproval.
4. If after receiving notice of disapproval, the applicant submits additional information, the City Engineer shall have thirty (30) calendar days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(d) PERMIT REQUIREMENTS AND CONDITIONS. All permits issued under this section of the Ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification to the permittee. An action by the City Engineer to suspend or revoke the permit may be appealed in accordance with Sec. 13.113 of this ordinance.

1. Compliance with the permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
2. The permit holder shall design, install, and maintain all structural and nonstructural storm water management practices in accordance with the approved storm water management plan, maintenance agreement, and the permit.
3. The permit holder shall notify the City Engineer at least three (3) business days before commencing any work in conjunction with the storm water management plan, and within three (3) business days upon completion of the storm water management practices. If required as a special condition, the permit holder shall make additional notifications to the City Engineer according to a schedule set forth in

the permit so that practice installations can be inspected during construction.

4. Completed structural storm water management practices must pass a final inspection to determine if they are in accordance with the approved storm water management plan and ordinance. The City Engineer 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 structural storm water management practice installation required as part of this ordinance shall be certified as built by a licensed professional engineer.
5. The permit holder shall notify the City Engineer prior to any modifications he or she intends to make to an approved storm water management plan. The City Engineer may require that the proposed modifications be submitted for approval prior to incorporation into the storm water management plan and implementation.
6. The permit holder 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, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
7. The permit holder authorizes the City to perform any work or operations necessary to bring storm water management practices into conformance with the approved storm water management plan, and to charge such costs against any performance bond or cash bond posted for the project.
8. The permit holder shall provide a written guarantee for all structural storm water management practices dedicated to the City, installed as part of the storm water plan and accepted by the City. The terms of such guarantee shall be included in a recorded development agreement.
9. If so directed by the City Engineer, the permit holder shall repair and restore, at the permit holder's own expense, all damage to municipal facilities and drainageways caused by storm water runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
10. The permit holder shall permit property access to the City Engineer for the purpose of inspecting the property for compliance with the approved storm water management plan and the permit.
11. Storm water management practices may discharge to public right-of-ways, wetlands or drainageways including but not limited to any ditch, channel, creek, river or storm sewer pipe line whether natural or manmade. If a proposed storm water management plan does not discharge to a public right-of-way, wetland or drainageway and involves significant changes in the direction of drainage (creates an increase in the peak rate of runoff), the permittee shall make appropriate arrangements with downstream property owners between the site discharge and the receiving public right-of-way, wetland or drainageway concerning the prevention of endangerment to downstream property or public safety. It shall be the responsibility of the developer to obtain from adjacent property owners any easements or other property agreements or interests concerning the flowage of water. Any such easements, agreements or interests shall be signed, recorded and submitted to the Council prior to approval of the storm water plan.
12. The permit holder is subject to the enforceable actions detailed in Sec. 13.112 of the storm water management ordinance if the permit holder fails to comply with the terms of the permit.

(e) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the City Engineer provides written notice to the permit holder that all storm water management practices have passed the final inspection required under Permit Condition (d).

SEC. 13.108 STORM WATER MANAGEMENT PLANS

(a) PLAN REQUIREMENTS. The storm water management plan required under Sec. 13.107(b) of this ordinance shall contain any such information the City Engineer may need to evaluate the environmental characteristics of the area affected by land development activity, the potential impacts of the proposed development upon the quality and quantity of storm water discharges, the potential impacts upon water resources and drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, storm water management plans shall contain, at a minimum, the following information:

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

2. Project location and description.
3. Pre-development site conditions, including:
    a. One or more site maps at a scale of not less than one (1) inch equals 100 feet. The site maps shall show the following: site location and property address; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours not to exceed two-foot contour interval; 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, including time of travel and time of concentration applicable to each; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes from the site; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site, limits of the 100-year flood plain; location of wells located within 1,200 feet of storm water detention ponds, infiltration basins, or infiltration trenches; delineation of wellhead protection areas pursuant to NR811.16 Wis. Admin. Code.
    b. Computations of the peak flow discharge rates and discharge volumes from each offsite inflow point and discharge point in the development. At a minimum, computations must be made for the following 24-hour, Type II storms: 2- and 100-year. All major assumptions used in developing input parameters shall be clearly stated. The areas used in making the calculations shall be clearly cross-referenced to the required map(s).
4. Post-development site conditions, including:
    a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and natural wetlands.
    b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
    c. One or more site maps at a scale of not less than one (1) inch equals 100 feet showing: proposed pervious land use including vegetative cover type and condition; impervious land use including all buildings, structures, and pavement; proposed topographic contours not to exceed two feet; proposed 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, including time of travel and time of concentration applicable to each; 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 determinations of peak flow discharge rates and discharge volumes, any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
    d. Computations of the peak flow discharge rates and discharge volumes from each discharge point in the development, including analysis of the capacity of downstream drainage conveyance systems. At a minimum, computations must be made for the following storms: 2- and 100-year 24-hour, Type II, storm. All major assumptions used in developing input parameters shall be clearly stated. The areas used in making the calculations shall be clearly cross-referenced to the required map(s).
    e. Detailed investigations of soils and groundwater required for the placement and design of storm water management measures.
    f. Design computations and all applicable assumptions for storm water conveyance (open channel, closed pipe) and storm water treatment practices (sedimentation type, filtrations, infiltration-type) as needed to show that practices are appropriately sized and capable of meeting the discharge performance standards of this ordinance.
    g. Detailed drawings including cross-sections and profiles of all permanent

storm water conveyance and treatment practices.

5. A storm water plan construction schedule.
6. A maintenance plan developed for the life of each storm water management practice, including the required maintenance activities and maintenance activity schedule.
7. Other information as required by the City Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

(b) EXCEPTIONS. The City Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under Sec. 13.106(f) of this ordinance.

SEC. 13.109 MAINTENANCE

(a) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required for storm water management practices under Sec. 13.105 and Sec. 13.106 of this ordinance shall be an agreement between the City and the permittee. The agreement shall be recorded with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the storm water management practices.

(b) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following provisions:

1. Identify the responsible party for maintenance of the storm water management practices.
2. The responsible party shall maintain storm water management practices in accordance with the storm water management practice maintenance provisions contained in the approved storm water management plan submitted under Sec. 13.108 of this ordinance.
3. The City Engineer is authorized 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 approved storm water management plan.
4. A schedule for regular maintenance of each aspect of the property's storm water management system.
5. That if the City Engineer notifies the party designated under the maintenance agreement of maintenance problems which require correction, the specified corrective actions shall be taken within a reasonable time frame as established by the City Engineer.
6. If the responsible party does not perform the required corrections in the specified time, the City may take either of the following actions:
   (i) Issue a citation to the responsible party. The penalty for violation of this section shall be not less than $50.00 nor more than $500.00 for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
   (ii) Perform the corrected actions identified in the inspection report and assess the landowner for the cost of such work. The cost of such work shall be specially assessed against the property pursuant to Wisconsin Statutes Section 66.0703.
7. Identification of the storm water facilities, design components, and designation of the drainage area served by the facilities.

SEC. 13.110 FINANCIAL GUARANTEE

(a) The City may require the submittal of a financial guarantee; the form and type of which shall be acceptable to the City. The financial guarantee shall be in an amount determined by the City Engineer to be the estimated cost of construction and the estimated cost of maintenance during the period which the designated party in the maintenance agreement has maintenance responsibility.

(b) Conditions for the release of the financial guarantee are as follows:

1. The financial guarantee shall be released in full or part as the components of the approved storm water management plan are completed and the storm water management practice installation has been certified as built by a licensed professional engineer.
2. The City Engineer must approve any portion of the plan dedicated to the City.
3. The financial guarantee, minus any costs incurred by the City to conduct required maintenance, shall be released at such time that the responsibility for storm water management practice maintenance is passed on to another private entity, via an approved maintenance agreement, or to the City.

SEC. 13.111 FEE SCHEDULE

(a) The fees referred to in other sections of this ordinance shall be established by the Council and may from time to time be modified by ordinance. A schedule of the fees shall be available for review in the office of the City Engineer and Clerk. Fees shall not be required of the state, a county, town, village, city, school district, or other municipal corporation, a board, commission, including a commission created by contract under Section 66.0301 of the Wisconsin State Statutes, corporation or housing authority created under Sections 66.1201 to 66.1211 of the Wisconsin State Statutes or redevelopment authority created under Section 66.1333 of the Wisconsin State Statutes.

SEC. 13.112 ENFORCEMENT AND PENALTIES

(a) Any land development activity 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 said provisions.

(b) The City Engineer shall notify the responsible owner or operator personally or by certified mail of any non-complying land development activity. 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.

(c) Upon receipt of written notification from the City Engineer, the permit holder shall correct work that does not comply with the storm water management plan or other provisions of this permit. The permit holder shall make corrections as necessary to meet the specifications and schedule set forth by the City Engineer in the notice.

(d) If the violations to this ordinance are likely to result in damage to adjacent properties, the City may enter the land and take emergency actions necessary to prevent damage to adjacent properties. The costs incurred by the City plus interest and legal costs shall be specially assessed against the property pursuant to Section 66.0703 of the Wisconsin State Statutes.

(e) The City Engineer is authorized to post a stop work order on all land development activity in violation of this ordinance.

(f) The City Engineer may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

(g) Any permit revocation or stop work order shall remain in effect unless retracted in writing by the City Engineer.

(h) The City Engineer is authorized to refer any violation of this ordinance, or of a stop work order issued pursuant to this ordinance, to the City Attorney for the commencement of appropriate legal proceedings.

(i) Any person, firm, association, or corporation issued a written notice under Sec. 13.112(b) who does not comply with the provision of this ordinance shall be subject to a forfeiture of not less than $50.00 nor more than $500.00 for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(j) Every violation of this ordinance is deemed to be a public nuisance.

(k) The City Attorney or City Engineer or other official designated by the Council may bring an action to enjoin any public nuisance and any violation of this ordinance or any other action deemed necessary, to enforce this ordinance.

(l) If the City Engineer determines that the holder of a permit issued pursuant to this ordinance has failed to follow the storm water management practices set forth in the Storm Water Management Plan submitted and approved pursuant to Sec. 13.107 of this ordinance, or has failed to comply with schedules set forth in said Storm Water Management Plan, and has received a written notice under Sec. 13.112(b), the City Engineer or a party designated by the City Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City Engineer shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance bond posted pursuant to Sec. 13.110 of this ordinance. If such a bond has not been established, or where such a bond is insufficient to cover these costs, the costs and expenses shall be specially assessed pursuant to Section 66.0703 of the Wisconsin Statutes.

SEC. 13.113 APPEALS

(a) The Council shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer in administering this ordinance or where the applicant maintains owing to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship or practical difficulty.

(b) Upon appeal, the Council may authorize variances to the storm water management plan and from the provisions of this ordinance which are not contrary to the public interest and the intent of this ordinance, and where, owing to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship or practical difficulty.

(c) Appeals to the Council by any aggrieved person affected by any decision of the City Engineer must be made in writing within thirty (30) days of the decision.

SEC. 13.114 SEVERABILITY

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

Ordinance 2226 A 12/3/2002 Sec. 13.100 through 13.114