

**CHAPTER 18**  
**Subdivision Control**  
**Table of Contents**

18.01.000	PURPOSE
18.02.000	GENERAL
18.02.010	Platting of Subdivision Required
18.02.020	Platting of Other Divisions Required
18.02.025	Condominium Plats
18.02.030	Exceptions
18.03.000	DEFINITIONS
18.04.000	PROCEDURE
18.04.010	Subdivisions
18.04.020	Land Division Other Than Subdivisions
18.05.000	GENERAL REQUIREMENTS AND DESIGN STANDARDS
18.05.010	General
18.05.020	Streets
18.05.030	Intersections
18.05.040	Alleys
18.05.050	Easements
18.05.060	Blocks
18.05.070	Lots
18.06.000	REQUIRED IMPROVEMENTS
18.06.010	Monuments
18.06.020	Required Installations
18.06.030	Financial Guarantee
18.06.040	Engineer's Approval
18.06.060	Dedication of Facilities
18.06.070	Supervision and Inspection Fees
18.06.080	Underground Facilities
18.07.000	PLATS AND DATA
18.07.010	Preliminary Consultation Data
18.07.020	Preliminary Plat
18.07.030	Final Plat
18.08.000	PUBLIC SITES AND OPEN SPACES
18.08.010	Consideration in Plat Layout
18.08.020	Reservation
18.08.030	Dedication
18.08.040	Alternate Methods in Lieu of Dedication

18.09.000	SUBDIVISIONS CREATED BY SUCCESSIVE DIVISIONS
18.09.010	Assessor's Plat
18.09.020	Reasonable Compliance
18.10.000	EXISTING SUBSTANDARD LOTS
18.10.010	Conveyance Requested
18.10.020	Determination of Ownership
18.11.000	REGULATIONS FOR CONSTRUCTION OF HIGHWAY OR DRIVEWAY TO SERVE MORE THAN OWN PARCEL OF LAND
18.11.010	Permit Required
18.11.020	Approval
18.12.000	VARIANCES
18.13.000	PENALTY
18.14.000	IMPACT FEES
18.14.010	Legislative Findings
18.14.020	Title, Authority
18.14.030	Intent and Purpose
18.14.040	Rules of Construction
18.14.050	Definitions
18.14.060	Imposition of the Impact Fees
18.14.070	Calculation of the Impact Fees
18.14.080	Fee Payment
18.14.090	Administration of Impact Fees
18.14.100	Use of Funds
18.14.110	Refunds
18.14.120	Exemptions
18.14.130	Penalty Provision
18.14.140	Appeal
18.14.150	Severability
18.15.000	STORMWATER MANAGEMENT
18.15.010	Purpose, Intent, and Findings of Fact
18.15.020	Definitions
18.15.030	Storm Water Management Plan and Facilities Required
18.15.040	Applicability, Jurisdiction, Comity and Exemptions
18.15.050	Storm Water Management Concepts
18.15.060	Permitting Requirements, Procedures and Fees
18.15.070	Storm Water Management Plan Contents
18.15.080	Maintenance Agreement
18.15.090	Financial Guarantee
18.15.100	Fee Schedule

18.15.110	Illicit Discharges and Unauthorized Connections
18.15.120	Inspection, Enforcement and Penalties
18.15.130	Appeals
18.16.000	APPLICATION REVIEW AND DEVELOPMENT FEES
18.16.010	Application Fees and Development Review Fees

## **CHAPTER 18**

### **Subdivision Control**

**18.01.000 PURPOSE.** The purpose of this chapter is to promote the public health, safety, and general welfare of the City of Port Washington and these regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds, and other public requirements; and to facilitate the further re-subdivision of large tracts into smaller parcels of land. These Regulations are made with reasonable consideration, among other things, of the character of the City with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of land throughout the City.

#### **18.02.000 GENERAL.**

**18.02.010 Platting of Subdivision Required.** Any division of land within the City of its extraterritorial plat approval jurisdiction which results in a subdivision as defined herein shall be surveyed and a plat thereof approved and recorded, pursuant to the provisions of this chapter and Chapter 236, Wisconsin Statutes.

**18.02.020 Platting of Other Divisions Required.** Any division of land other than a subdivision within the City or its extraterritorial plat approval jurisdiction (pursuant to 18.02.010), of which a plat has not been approved and recorded, shall be surveyed and a certified survey map of such division approved and recorded as required by Section 18.04.020.

**18.02.025 Condominium Plats.** A condominium plat submitted pursuant to §703.11 of the Wisconsin Statutes shall be reviewed in the same manner as a subdivision plat as set forth herein.

**18.02.030 Exceptions.** The provisions of this chapter shall not apply to:

1. Transfer of interests in land by will or pursuant to court order;
2. Leases for a term not to exceed 10 years, mortgages, or easements;
3. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this ordinance or other applicable laws or ordinances.

**18.03.000 DEFINITIONS:** The following definitions shall apply to this chapter:

1. **“Subdivision”** – The division of a lot, parcel, or tract of land by the owner thereof or his agent for the purpose of sale or building development where:  
The act of division creates 5 or more parcels or building sites of 1 ½ acres each or less in area; or

Five or more parcels or building sites of 1 ½ acres each or less in area created by successive divisions within a period of 5 years.

2. **“Plat”** – As used in this chapter, refers to the map prepared, as required by either Section 18.02.010 or Section 18.02.020, for the purpose of recording “subdivisions” or “other divisions” of land as provided herein.
3. **“Subdivider”** – The owners of land which is being divided pursuant to Section 18.02.010 or Section 18.02.020.
4. **“Extraterritorial Plan Approval Jurisdiction”** – The unincorporated area within 1½ miles of the corporate limits of the City.
5. **“Street”** – A way for vehicular traffic other than an alley.
6. **“Major Streets”** – Those which serve as the principal arteries of through traffic movement.
7. **“Collector Streets”** – Those which carry traffic from minor streets to the system of major streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
8. **“Minor Streets”** – Those which are used primarily for access to the abutting property, further defined as follows:

Local Access Streets-Those through streets used primarily for access to abutting property.

Cul-de-sac Streets-Those streets, closed at one end, on a permanent rather than a temporary basis.

Loop Streets-Those local access streets originating and terminating on the same street.

Frontage Streets-Those streets which are parallel to and adjacent to major streets and highways, and which provide access to abutting properties and protection from through traffic.

9. **“Sidewalk”** – A Portland cement walkway with a minimum width of 5 feet.
10. **“Condominium”** – As used in this Chapter is property subject to a condominium declaration established under Chapter 703 of Wisconsin Statutes.

## **18.04.000 PROCEDURE.**

### **18.04.010 Subdivisions.**

#### **A. Preliminary Plat.**

1. Required – before submitting a final plat for approval the subdivider shall submit a preliminary plat to the Plan Commission in order that general agreement may be reached on layout and arrangement of streets and lots before a final plat is prepared. The form and data required for plat submittal shall be designated under section 18.07.000.
2. Preliminary Consultation – The subdivider shall, before submitting the plat for official filing, meet with the Plan Commission for preliminary consultation in order to insure that the plat is acceptable for processing.
3. Preliminary Plat (Repealed)

4. Official Filing – Following the preliminary consultation, the plat, and fifteen (15) copies thereof shall be officially filed with the City Clerk. The filing fee, and any service fees required by any state agency pursuant to section 236.12(7), Wisconsin Stats., shall accompany the filing. Upon receipt of all of the above, the City Clerk shall forward the necessary copies to any agencies as required by section 236.12, Wisconsin Statutes; retain one copy in the official file; and forward two copies to the city engineer, along with any pertinent data applicable thereto.
5. Official Approval – Within the time allowed by section 236.11, Wisconsin Stats., the Plan Commission shall take action to approve, approve conditionally, or reject the preliminary plat and shall state in writing any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider.

Approval of the preliminary plat shall entitle the subdivider to final approval of the layout shown by such plat if the final plat conforms substantially to such layout and conditions of approval have been met.

#### **B. Engineering Data.**

B-1. Following approval of the preliminary plat and prior to submittal of a final plat the subdivider shall furnish to the City Engineer the following engineering data pertaining to utilities and improvements in the plat as is pertinent and as requested by the Engineer.

1. Plan and profiles showing existing and proposed grades for all streets, alleys, and public right-of-ways at a scale no smaller than 40 feet to the inch horizontally and 4 feet to the inch vertically.
2. Plans and profiles of all storm sewers if they are being provided, including the location of a minimum of one storm sewer lateral per lot extended from the main to the lot line if the lot is to be serviced, culverts and surface water drainage facilities, at a scale no smaller than 40 feet to the inch horizontally and 4 feet to the inch vertically.
3. Plans and profiles of all sanitary sewers, including the location of a minimum of one sanitary sewer lateral per lot line, extended from the sewer main to the lot line, at a scale no smaller than 40 feet to the inch horizontally and 4 feet to the inch vertically.
4. Plan and profiles of all water distribution mains, including stop box locations and appurtenances, including the location of a minimum of one water lateral per lot, extending from the water main to the lot line, all at a scale no smaller than 40 feet to the inch horizontally and 4 feet to the inch vertically.
5. A grading plan showing all lots within the proposed plat, street right-of-ways, existing contours across all street right-of-ways and lots, existing and proposed contours of all land to be dedicated for public use, proposed building elevations, all lot corner elevations and lot corner and building corner elevations of abutting properties, all at a scale no smaller than 40 feet to the inch horizontally.

The contour intervals for existing and proposed contours shall in no case be larger than 2 feet.

6. A drainage plan showing the overland flow of surface waters as it will occur after completion of the grading in accordance with the approved grading plan. The City Engineer may allow the Grading Plan and Drainage Plan to be combined on one plan, but the combining of the two plans shall only be allowed upon express written consent of the City Engineer. Said drainage plan shall include accepted procedures for minimizing and controlling erosion and sedimentation during the construction phase of development. Should the City Engineer determine, after reviewing the Preliminary Plat, that the soil, slope, vegetation and drainage characteristics of the site are such as to require substantial cutting, clearing, grading, filling or other earthmoving operations in the development of the subdivision that may entail a severe erosion hazard, the City Engineer shall require the developer to provide soil erosion and sedimentation control plans and specifications prepared by a Registered Professional Engineer, Architect or the U.S. Soil Conservation Service using as a guide the handbook titled "Minimizing Erosion in Urbanizing Areas" as developed by the Ozaukee County Soil and Water Conservation District.
7. Construction plans, with the exception of the Grading Plan and Drainage Plan, shall be prepared on 24" x 36" reproducible (tracing) material. Construction plans for water and sanitary sewer shall be on one sheet. A complete set of reproducible tracings of all construction plans shall be furnished the City Engineer upon his final approval of the plans. The Grading Plan and Drainage Plan shall be prepared on reproducible (tracing) material, not to exceed 40" x 40" size. A reproducible tracing shall be furnished by the City Engineer upon his final approval of the plans. Legends for plans shall be supplied by the City Engineer, for use by the subdivider's Engineer.
8. All underground storm sewer systems shall be designed to convey the runoff generated from a ten (10) year frequency rainfall event. In addition there shall be provisions within the design layout of the subdivision or area to be served by this storm sewer for the conveyance of the runoff volume in excess of the ten (10) year return frequency rainfall event so as to provide protection of major structures, buildings and roadways from flooding and ponding in excess of 2-feet.

All storm water detention facilities shall be designed to contain and accommodate the runoff from a rainfall event having a return frequency of not less than one hundred (100) years. The release rate from any storm water detention facility shall be as determined under Section 18.06.020, D.

B-2 Approval by Engineer. All such construction plans and profiles, Grading and Drainage Plans and pertinent data shall be approved by the City Engineer before the final plat shall be deemed acceptable for filing.

### **C. Final Plat.**

C-1 (a) Filing Fee. (Repealed)

C-1 When Filed. The final plat and such copies thereof as shall be required shall be submitted to the City Clerk within 2 years of approval of the preliminary plat. However, if approval of the preliminary plat must be obtained from another

approving authority subsequent to approval by the Plan Commission, the final plat shall be submitted within 2 years of such approval. The Plan Commission may waive failure to comply with this 2 years requirement.

C-2 Engineer's Check. In order to insure that the plat is acceptable for processing it shall be submitted initially to the City Engineer for checking.

C-3 Forwarding. Upon official filing, the City Clerk shall forthwith forward the plat to the Plan Commission and shall forward the necessary copies of the plat to any agencies as required by Section 236.12, Wisconsin Statutes.

C-4 Referral to Council. The Plan Commission shall refer the final plat with its recommendation to the Common Council within 30 days of its submission unless the time is extended by the Council.

C-5 Council Approval. The Council shall approve or reject the final plat within 60 days of its submissions unless the time extended by agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the Council meeting and a copy thereof or a written statement of such reasons shall be supplied the subdivider.

C-6 Optional True Copy. If the original of the final plat has been filed with another approving authority, the subdivider may file a true copy of such plat in lieu of the original.

However, before approval by the Common Council will be inscribed on the original of the final plat, the surveyor or the subdivider shall certify the respects in which the original of the final plat differs from the true copy, and all modifications must first be approved.

D. Optional Processing Procedure. Where the developer chooses to follow the optional procedure in processing the plat as provided by Section 236.12, Wisconsin Statutes, the City Clerk and Plan Commission shall modify their procedure and the wording of the necessary certificate and approval accordingly.

#### **18.04.020 Land Divisions Other Than Subdivisions.**

A. Preliminary Plat. Before submitting a final plat for approval the subdivider shall submit a preliminary plat according to the procedure designated for a subdivision under 18.04.010A except that no state agency actions are required.

B. Final Plat. The final plat in the form of a certified survey map shall be submitted according to the procedure designated for a subdivision, under 18.04.010 B and C, except that no state agency actions are required and if the platting does not involve the creation of additional new streets only the approval of the Plan Commission shall be required. Six copies of the final plat shall be submitted.

### C. Requirements.

C-1 Reasonable Compliance. To the extent reasonably practicable the plat shall comply with the provisions of this chapter hereinafter stated relating to general requirements and design standards and required improvements.

C-2 Registered Surveyor. The survey shall be performed and the map prepared by a registered surveyor. Such map shall describe the entire ownership involved in the process of division, provided however that where the division results in a residual parcel in excess of 10 acres, not intended for immediate sale or other conveyance, the Plan Commission may waive the requirement for inclusion of the residual parcel in which case a supplementary map of reasonable accuracy shall be attached showing the relationship to the original ownership of the parcel or parcels being severed.

C-3 Monuments. All corners shall be monumented in accordance with Section 236.15 (1) (c) and (d), Wisconsin Statutes.

C-4 Engineering Standards. The final plat shall be prepared in accordance with Section 236.20 (2) (a), (b), (c), (e), (f), (g), (h), (i), (j), (k), (1), Wisconsin Statutes, on durable white paper 8 ½ inches wide by 14 inches long. All lines shall be made with non-fading black ink to a scale of 200 feet to an inch. The Registered Land Surveyor shall furnish the City Engineer an 8 ½ x 14" reproducible tracing of the Certified Survey Map after certified for approval by the City Plan Commission and/or Common Council.

C-5 Percolation Tests. If any lots in the plat are not to be served by municipal sanitary sewer, percolation tests shall be submitted according to the procedure designated under the rules of the State Board of Health applicable to subdivision.

C-6 Filing Fees. (Repealed)

### D. Certificates and Affidavits.

D-1 Owners and Surveyors. The map shall include the certificate of ownership and the affidavit of the surveyor who surveyed and mapped the parcel, typed, lettered, or reproduced legibly with non-fading black ink, giving a clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the United States Public Land Survey or some corner providing reference to a corner marked and established in the United States Public Land Survey. Such affidavit shall include the statement of the surveyor to the effect that he has fully complied with the requirements of this section.

D-2 Certificate of Approval. The certificate of approval of the Plan Commission or Common Council as required, shall be typed, lettered, or reproduced legibly with non-fading black ink on the face of the map.

E. Recording. Following approval of the final plat the certified survey map shall be filed by the subdivider for recording with the Register of Deeds.

## **18.05.000 GENERAL REQUIREMENTS AND DESIGN STANDARDS.**

**18.05.010 General.** The proposed subdivision shall conform to:

1. The provisions of Chapter 236, Wisconsin Statutes;
2. All applicable ordinances of the City;
3. The Master Plan;
4. The official map;
5. The rules of the State Board of Health relating to lot size and lot elevation if the subdivision is not served by a public sewer and provision for such service has not been made.
6. The rules of the State Highway Committee relating to safety of access and the preservation of the public interest and investment in streets and highways if the subdivision or any lot contained therein abuts on a state trunk highway or connecting street.

### **18.05.020 Streets.**

#### **A. General Considerations.**

A-1 Design Criteria. The streets shall be designed and located in relation to existing and planned streets, to topographical conditions and natural terrain features such as streams and existing tree growth, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Sidewalks shall be provided on all streets as described in Sections 18.05.020 C, D, E, and L unless in the opinion of the Board of Public Works additional sidewalk may be required.

In any industrial district on any street where it is industrial zoned on both sides where sidewalks are required to be installed on each side of a street, the Common Council may in its discretion, allow sidewalk to be installed on only one side, or neither side of, any such street, under such conditions and pursuant to a design as may be approved by the City Council.

A-2 Construction standards. Construction of all streets shall conform to the current standards as established by the City Engineer and shall be subject to approval of the City Engineer before acceptance.

B. Conform to Official Map. The arrangement, width, grade and location of all streets shall conform to the official map.

C. Arrangement.

C-1 Major Streets shall be properly integrated with the existing and proposed system of major streets and highways and shall have sidewalks installed on each side of the street.

C-2 Collector Streets shall be properly related to the mass transit system, to special traffic generating from facilities such as schools, churches, and shopping centers, to population densities, and to major streets into which they feed and shall have sidewalks on each side of the street.

C-3 Minor streets shall be laid out to conform as much as possible to topography, to discourage use by through traffic, to permit efficient drainage and sewer systems, and to require the minimum amount of street necessary to provide convenient, safe access to property and shall have sidewalks installed on both sides unless in the opinion of the Board of Public Works sidewalks are only needed on one side.

- D. Railroads and Limited Access Highways. Where a subdivision borders or contains a railroad right-of-way or limited access highway right-of-way, the Plan Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land as for park purposes in residential districts or for commercial or industrial purposes in other districts and a sidewalk shall be included on the developed side of these streets.
- E. Controlled Access. Where a subdivider borders on or contains an existing or proposed major street, the Plan Commission may require that frontage streets be provided, that the backs of lots abut the major streets and be provided with screen planting contained in a non-access reservation along the rear property line, that deep lots with rear service alleys be provided or that provisions be made for the adequate protection of residential properties and the separation of through and local traffic and a continuous sidewalk system shall be provided either along said frontage streets or through the proposed development if approved by the Board of Public Works.
- F. Width. The right-of-way of all streets shall be of the width specified on the official map or master plan, or, if no width is specified there, they shall be not less than the width specified below:

Right of Way

1. Major Streets	100 feet
2. Collector Streets	80 feet
3. Local Access Streets	60 feet
4. Cul-de-sac or Loop Streets	50 feet
5. Frontage Streets	30 feet

\* Note: Cul-de-sac Streets refer to permanent rather than temporary cul-de-sacs, and Loop Streets refer to local access streets originating and ending on the same street.

- G. Grades. The grade of major and collector streets shall not exceed 6%, and the grade of all other streets shall not exceed 10%, unless necessitated by exceptional topography and approved by the Plan Commission. The minimum grade of all streets shall be no less than ½ % and such minimum shall not be permitted for sustained distances.
- H. Horizontal Curves. A minimum sight distance with clear visibility, measured along the center line, shall be provided of at least 300 feet on major streets, 200feet for collector streets, and 100 feet on minor streets.

- I. Vertical Curves. All changes in street grades shall be connected by vertical curves of minimum length equivalent to 15 times the algebraic difference in the rate of grade for major streets and collector streets and ½ of this minimum length for all other streets.
- J. Tangents. A tangent at least 100 feet long shall be introduced between reverse curves on major and collector streets.
- K. Street names. New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the name of the existing streets.
- L. Cul-de-sac or Dead End Streets. Streets designed to have one and permanently closed shall not normally exceed 500 feet in length and shall terminate with a turnaround of not less than 120 feet in diameter or right-of-way and a roadway of not less than 100 feet in diameter. Sidewalks shall be provided on both sides of a cul-de-sac or dead end street unless eliminated by the Board of Public Works. The Board of Public Works may also require a pedestrian corridor sidewalk be installed from the end of the cul-de-sac or dead end street when it is considered essential to the City's continuous sidewalk system.
- M. Reserve Strips. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the City under conditions approved by the Plan Commission.
- N. Half-Streets. Where a half-street is adjacent to the subdivision, the other half of the street shall be dedicated by the subdivider.

**18.05.030 Intersections.**

- A. Right Angle. Streets shall intersect as nearly as possible at right angles and not more than two streets shall intersect at one point unless approved by the Plan Commission.
- B. Rounded. Property lines at street intersections shall be rounded with a radius of 15 feet or of a greater radius where the Plan Commission considers it necessary.
- C. Jogs. Street jogs with centerline offsets of less than 125 feet shall be avoided. Where streets intersect major streets, their alignment shall be continuous.

**18.05.040 Alleys.**

- A. Commercial and Industrial. Alleys shall be provided in all commercial and industrial districts, except that the Plan Commission may waive this requirement where other definite and assured provision is made for service access such as off-street loading and parking consistent with and adequate for the uses proposed.
- B. Residential. Alleys shall not be approved in residential areas unless necessary because of topography or other exceptional circumstances.
- C. Width. The width of alleys shall be not less than 24 feet.
- D. Dead End. Dead end alleys are prohibited except under very unusual circumstances, and crooked and "T" alleys shall be discouraged. Where dead end alleys are unavoidable, they shall be provided with adequate turn-around facilities at the dead end.

**18.05.050 Easements.**

- A. Utilities. Easements across lots or centered on rear of side lot line shall be provided for utilities, and shown on the final plat, where required by the Plan Commission. The easements shall be provided for telephone, electric power, natural gas, storm or sanitary sewer, water main or other utility and in no case shall be less than ten (10) feet in width.
- B. Drainage. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

**18.05.060 Blocks.**

- A. Shape and Size. The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated.
- B. Crosswalks. Pedestrian crosswalks not less than 15 feet wide may be required by the Plan Commission where deemed desirable to provide convenient pedestrian circulation or access to schools, playgrounds, shopping centers, transportation, and other community facilities.

**18.05.070 Lots.**

- A. In general. The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. Lot dimension:
  - 1. Lot dimensions shall conform to the requirements of the zoning ordinance.
  - 2. Residential lots to be served by private sewerage disposal facilities shall comply with the rules of the State Board of Health.
  - 3. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
  - 4. Residential lots abutting on major streets and highways shall be platted with sufficient depth to permit adequate separation between the buildings and such traffic ways.
  - 5. Lots shall be designed with a suitable proportion between width and depth. Neither long narrow, nor wide shallow lots are normally desirable. Normal depth should not exceed 2 ½ times the width, nor be less than 100 feet.
- C. Corner Lots. Corner lots should be designed to permit full setback on both streets as required by the applicable zoning district requirements.

- D. Access to Public Streets. Every lot shall front or abut on a public street. Lots with an access only to private drives or streets shall be permitted only with Plan Commission approval.
- E. Lots at Right Angles. Lots at angles to each other should be avoided wherever possible, especially in residential areas.
- F. Lot Lines. Side lot lines shall be substantially at right angles or radial to street lines.
- G. Large Lots. Where lots are created of a size larger than normal for the area, the Plan Commission may require that the plat be so designed as to allow for the possible future subdivision of such lots into normal sizes compatible with the area.
- H. Municipal Boundaries. Lots shall follow municipal boundary lines whenever practicable, rather than cross them.
- I. Double Frontage. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages topography and orientation.

#### **18.06.000 REQUIRED IMPROVEMENTS.**

**18.06.010 Monuments.** The subdivisions shall be monumented as required by Section 236.15, Wisconsin Statutes, which is hereby adopted by reference.

**18.06.020 Required Installation.** Before the final plat of a subdivision located within the corporate limits will be approved, the subdivider shall provide, cause to be provided, and where required by the Common Council, dedicate the following facilities and improvements; facilities and improvements must be installed within the time required by the Common Council, but in no event to exceed two (2) years. Either the city or the subdivider may require that a Subdividers Contract be entered into setting forth details about the installation of improvements, such as but not limited to responsibility on guaranty or warranty of the work, liability during construction, contributions and reimbursements, sureties, etc.

**A. Water and Sewer.** Water, sanitary sewer mains and manholes, lift stations and laterals to the lot lines in those cases where the subdivision has been designed to be served by such utility systems, where connection can be reasonably provided to existing systems or to systems to be constructed in the reasonably near future, and where the installation of such facilities is deemed necessary by the Plan Commission or the Board of Public Works. The subdivider shall pay the full cost or equivalent for mains in diameter only up to inches for water and 12 inches for sewers, (and the cost for off-site extension of such utilities up to the subdivider's lands only in proportion to the share of the design capacity for such utilities attributable to the subdivider's lands).

**B. Streets.** All new streets and additional right-of-way along existing streets shall be in conformance with the established street map of the City, and the standards set forth in Section 18.05.020 of this Chapter. Except for cul-de-sacs and street boulevards for center strip drainage, no dedication shall be required in excess of 100 feet of width. All new streets shall be graded and surfaced, including curb and gutter, except that where principal thoroughfares lie entirely or partially

within the plat, the subdivider shall not be required to bear the cost of improvements in excess of those required for normal 36 foot wide paving. All newly constructed residential streets shall be built as described by the most recent edition of the *Wisconsin Department of Transportation, Standard Specifications for Road and Bridge Construction*, and shall be constructed using either of the following methods and materials, unless, based upon soils, subsurface conditions, proposed usage or other engineering considerations specific to the location of the proposed street, the City Engineer disapproves of such methods or materials:

1. A minimum of twelve (12) inches of Crushed Aggregate Base Course, gradation No. 2, compacted to 95% of modified proctor. The finished surface shall be two (2) lifts of hot mix asphalt consisting of a 3 ¾ inch binder course of 19 mm aggregate, and a 1 ¾ inch surface course of 12.5 mm aggregate, superpave type E-3, PG 58-28; or
2. A minimum of four (4) inches of crushed stone, gradation no. 2, compacted to 95% of modified proctor. Streets shall be constructed with a minimum of seven (7) inch Portland cement concrete (Pcc) pavement, non-reinforced, with integral curb and gutter. Only concrete mix designs approved by the City Engineer may be used. Concrete strength must be a minimum of 3,500 pounds per square inch at 28 days.

**C. Storm Water Detention Facilities.** Storm water detention facilities designed to contain runoff from acreage only within the proposed subdivision shall be paid for entirely by the subdivider. Storm water detention facilities which would include service for acreage outside the proposed subdivision shall be constructed by the subdivider with the subdivision required to pay for only those proportionate costs by area which service that subdivision. For example, if the entire drainage area is 100 acres and the proposed subdivision is only 50 acres, the subdivider would pay for 50% of the total cost associated with the detention facility.

**D. Surface Drainage.** Where the natural terrain and drainageways are so arranged to be conducive to the construction of open drainage channels, storm detention basins, swales or ditches, the Subdivider shall include facilities of this type in the Drainage Plan and shall cause to have the same installed as approved by the City Engineer. This work shall be included in the grading contract and shall not be considered a portion of storm water main construction. Where the surface drainage facilities to be constructed will serve a substantial area tributary to the subdivision, the subdivider may petition the City Engineer to prepare a division of costs showing what portion of the oversizing of facilities results from serving the area upstream of the subdivision. The subdivider shall pay the full costs for such facilities up to the ratio of the design capacity for storm waters generated within the plat compared to the total design capacity as determined by the City Engineer.

Surface water runoff from a development which are regulated under this ordinance shall not exceed the runoff peak rate and volume that existed under pre-development conditions under a rainfall event having a return frequency of ten (10) years. The design criteria for sizing of any storm water detention facility is provided in Section 18.094.010B, B-1, number 8.

**E. Erosion and Sedimentation Control.** The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded or otherwise protected that erosion, siltation, sedimentation, and washing are prevented in accordance with plans and specifications within such time as required by the Plan Commission and approved by the City Engineer.

Topsoil shall be re-established throughout the graded area, immediately after final grade has been established. Temporary vegetation and mulching shall be used to protect all areas subject to excessive wind or water erosion during the development of the subdivision. Permanent vegetation shall be installed as soon as practical.

The Subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, paths and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices recommended by the U.S. Department of Agricultural Information Bulletin No. 285, "Protecting Trees Against Damage From Construction Work", U.S. Government Printing Office, 1964. Such trees are to be preserved by well islands or retaining walls whenever abutting grades are altered.

In areas where siltation and sedimentation is anticipated, sediment basins shall be installed and maintained to trap, remove and prevent sediment from being washed outside the area being developed. In addition, the Plan Commission may require that permanent vegetation such as crownvetch be planted to stabilize any slopes and embankments that will not be subject to regular mowing and/or other maintenance because of excessive grade.

**F. Parkway Lawn.** Wherever sidewalk is required by this ordinance or by the Board of Public Works, or where sidewalk is installed even if not required, any area lying between such sidewalk and the curb of a street shall be graded with four inches minimum of topsoil and shall be seeded or sodded, unless otherwise provided by the Board of Public Works.

**G. Street Trees.** The City shall provide and plant street trees on both sides of all roadways, at subdivider's expense. Said trees shall have a trunk diameter of not less than one and one-half (1 ½") at the point one foot above the root system. The species of trees to be planted shall be approved by the Board of Public Works and City Engineer, and all trees failing to survive for a period of two years shall be replaced by the City, at subdivider's expense.

**H. Street Lights.** The City shall provide and install, at subdivider's expense, all streetlights in the subdivision as approved by the Board of Public Works and City Engineer.

**J.** The City shall provide and install, at subdivider's expense, all road signs in the subdivision as approved or required by the Board of Public Works or the Common Council, as the case may be. Road signs shall be defined to include, but not be limited to, stop signs; yield signs; no parking signs; speed limit signs; school crossing signs; street name signs; and any other signs, whether warning, cautionary, advisory, identifying, or the like.

**18.06.030 Financial Guarantees.** In the event the aforesaid facilities and improvements have not been fully installed at the time the plat is submitted for final approval, the subdivider shall file with the City Treasurer, or his/her deputy or other designated agent, a surety bond executed by the subdivider as principal and a responsible bonding company duly licensed and authorized to do business in the State of Wisconsin as surety, payable to the City of Port Washington, Wisconsin, and conditioned upon the faithful performance and payment of any and all work to be performed by the subdivider pursuant to this chapter; or other satisfactory financial guarantee for this purpose. Such bond or other financial guarantee shall be approved by the City Attorney and shall be of an amount determined by the City Engineer to amply cover the cost of completing said facilities and improvements.

**18.06.040 Engineer's Approval.** There shall be filed with the Plan Commission at the same time as the final plat is filed, cross-sections and profiles of streets, and all other construction drawings related to the improvements in the subdivision. The Director of Public Works shall review the same and make recommendations thereon to the Plan Commission prior to approval of the final plat. All construction of improvements required of the subdivider and contemplated by this ordinance or other regulation shall be subject to supervision and approval of the Director of Public Works. The actual cost thereof for each subdivision shall be estimated by the Director of Public Works and be considered in the financial guarantee specified in Section 18.06.030, above. When all improvements have been approved by the Director of Public Works, the subdivider shall be entitled to a return of any amount not expended for supervision purposes. In the event such estimated guarantee does not equal the actual cost, the subdivider shall pay such additional amount within 30 days of billing.

**18.06.060 Dedication of Facilities.** All facilities and improvements installed prior to the final approval of the plat shall be considered along with streets and other public areas upon the approval of the plat. Facilities and improvements completed under bond or other financial guarantee after the approval of the plat shall be considered dedicated upon their approval and acceptance and release of the bond or other guarantee.

**18.06.070 Supervision and Inspection Fees:** All fees and costs connected with supervision and inspection of proposed improvements shall be paid by the Subdivider to the City as described in Section 18.06.040.

**18.06.080 Underground Facilities.** Facilities for distribution of electric, telephone, and gas utility service located within a subdivision, shall be installed underground, except where the Common Council, upon recommendations of the Plan Commission, finds that adverse soil conditions or problems of utility distribution make such installation prohibitively expensive or similar equipment may be installed upon the ground surface if the location and utility-approved landscape screening plan therefore have been approved by the Plan Commission.

## **18.07.000 PLATS AND DATA.**

**18.07.010 Preliminary Consultation Data.** The following information shall be provided at the time of the preliminary consultations:

3. General. Information including data on existing covenants, land characteristics and available community facilities and utilities, and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, business areas, playgrounds, park areas, and other public areas, tree planting, proposed protective covenants and proposed utilities and street improvements.
4. Location Map. A location map showing the relationship of the proposed subdivision to existing community facilities which serve or would be influenced by it, and including the development name and location, main traffic arteries, churches, title, scale, north arrow and date.
5. Proposed Layout. A sketch plan showing a simple sketch form of the proposed layout of street, lots, and other features in relation to existing conditions. The sketch plan may be a free hand pencil sketch made directly on a print of the topography survey.

**18.07.20 Preliminary Plat.**

- A. The preliminary plat shall be drawn with waterproof non-fading black ink or legibly drawn with pencil on tracing cloth, or tracing paper of good quality at scale of 200 feet to an inch and shall show accurately on its face:
  1. The date, scale and northpoint.
  2. The proposed subdivision name, which shall not duplicate the name of any plat previously recorded in Ozaukee County.
  3. The name and address of the owner, the subdivider, and the engineer, planner or surveyor preparing the plat.
  4. Location of the subdivision by government lot, quarter section, township, range and county.
  5. A small scale drawing of the section or government subdivision of the section in which the subdivision lies with the location of the subdivision indicated thereon.
  6. The exact length and bearing of the exterior boundaries of the subdivision.
  7. Location and names of adjacent subdivisions and the owners of adjoining parcels of unsplit land.
  8. Zoning on and adjacent to the subdivision.
  9. Location, widths and names of all existing and platted streets, alleys, or other public ways and easements, railroad and utility right-of-ways, parks, cemeteries, water courses, drainage ditches, permanent buildings, bridges, and other pertinent data as determined by the Plan Commission.
  10. The water elevation of adjoining lakes or streams at the date of the survey and the approximate high and low water elevation of such lakes or streams.
  11. If the subdivision borders a lake or stream, the distances and bearing on a meander line established not less than 20 feet back from the ordinary high water mark of the lake or stream.
  12. Layout, width and approximate grades of all new streets and right-of-ways, such as alleys, highways, easements for sewers, water mains, and other public utilities.
  13. Direction and distance to nearest water and sewer mains.

14. Approximate dimensions and areas of lots.
15. Proposed building lines.
16. Approximate radii of all curves and lengths of tangents.
17. Approximate location and area of property proposed to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision with the conditions, if any, of such dedication or reservation.
18. Contours at 2-foot vertical intervals or at more frequent intervals is required by the Plan Commission for land of unusual terrain characteristics. All pertinent elevations should be shown and shall be based on City of Port Washington datum.

The area for which such data is to be shown shall extend beyond the boundaries of the actual property being platted a distance which will adequately relate the plat to its surroundings.

#### **18.07.030 Final Plat.**

- A. Compliance with Section 236.20. A final plat of subdivided land shall comply with requirements of Sec. 236.20, Wisconsin Statutes, which is hereby adopted by reference.
- B. Legibility of Affidavits. The affidavits and certificates required by Chapter 236, Wisconsin Statutes, shall be lettered or printed legibly with black durable ink or typed legibly with black ribbon on the final plat.
- C. Duplicate tracing. A duplicate tracing on cloth of the final plat shall be filed with the City Engineer, together with a reduced copy at 1-inch equals 200 feet.

**18.08.000 PUBLIC SITES AND OPEN SPACES.** The following regulations are intended to provide for the preservation and proper location of school, park, recreation, and other public use areas to meet the needs of the expanding community, because of the development of vacant lands; and to insure that such provision is in appropriate proportion to the additional need created by the development, and coordinated with the environmental pattern and goals established by the community.

#### **18.08.010 Consideration In Plat Layout.**

- A. In the design and layout of plats, consideration shall be given to the provision of the foregoing open space and public use areas, consistent with the purpose stated, and in compatibility with the specific terrain and related use characteristics of the site.
- B. Upon preliminary approval by the Plan Commission of the general layout plan and prior to approval of a final plat, determination shall be made as to the specific method whereby such areas shall be preserved.

**18.08.020 Reservation.** The subdivider may be required to reserve such areas for a period not to exceed 2 years, after which time, if agreement has not been reached for the acquisition of the area by the City, the reservation shall be released.

**18.08.030 Dedication.**

A. Definitions. The following definitions shall apply to this section and sec. 18.08040:

1. **Community Park.** A community park is a park typically greater than 25 acres and having a service radius of 1 to 2 miles. Such parks serve a large portion of the community, and may include, but are not limited to: areas of intense active recreation (e.g., pools and sport complexes); natural areas for walking, viewing, sitting and picnicking; areas of diverse environmental quality; or any combination of the foregoing attributes.
2. **Neighborhood Park.** A neighborhood park is a park typically of 5 to 25 acres and having a service radius of ¼ to ½ mile. Such parks may include, but are not limited to, areas for intense recreational activities (e.g., field games, court games, crafts, play equipment, ice-skating and picnicking). Busy streets, creeks and railroad tracks are barriers to these parks.
3. **Mini Park.** A mini park is a park typically of 1 to 5 acres and having a service radius of ¼ mile. Such parks may include, but are not limited to, specialized facilities that serve a limited population or specific group such as toddlers or senior citizens.

B. Dedication Required. Within the corporate limits of the City the subdivider shall be required to dedicate sufficient land to provide park, recreation, and general open space to meet the anticipated neighborhood needs of residential and development areas, as such park development is determined necessary or desirable by the Port Washington Comprehensive Park and Open Space plan. In addition to land, the subdivider shall be responsible for the cost of street improvements (sanitary sewer; storm sewer; water main; curb and gutter; sidewalk; rough grading; road base and paving; one each sanitary, storm and water laterals; and street trees at 35' intervals) abutting the proposed dedication and the pro-rata share for the purchase and installation of park equipment calculated as of 2001 at \$12,500 per acre of park land (or such other amount as may be applicable in the future due to changes in the cost of such park equipment). The amount of required dedication shall be in direct proportion to the need generated by the additional new dwelling unit potential (based upon the specific plat layout) as follows:

1. Based upon minimal area standards per dwelling unit, dedication of 1,000 square feet of land for park, recreation and general open space shall be required for each additional new dwelling unit potential.
2. For each dwelling unit in any multiple family dwelling, apartment or townhouse, the amount of land to be provided shall be determined on the basis of 500 square feet of land for park, recreation and general open space.

#### **18.08.040 Alternate Methods In Lieu Of Dedication.**

- A. To insure the most uniform application of this requirement, where the dedication of lands within a specific plat is not feasible or compatible with the Port Washington Comprehensive Park and Open Space Plan, or by mutual agreement between the subdivider and the City, the subdivider may, in lieu of such dedication, satisfy the requirement for provisions of such park, recreation and general open space by payment of an amount in dollars equal to the value of an improved park. For purposes of determining the amount due hereunder, an improved park shall include: then current land value as determined by the City Assessor, plus the cost of street improvements (sanitary sewer; storm sewer; water main; curb and gutter; sidewalk; rough grading; road base and paving; one each sanitary, storm and water laterals; and street trees at 35' intervals) with unit costs for the development calculated by the City Engineer for a typical park frontage which shall be equal to 8.38' (based on a 25 lot subdivision with frontage equal to 57% of the depth) per 1,000 square feet of required park land dedication, plus the pro-rata share for the purchase and installation of park equipment calculated as of 2001 at \$12,500 per acre of park land (or such other amount as may be applicable in the future due to changes in the cost of such park equipment).
- B. Disposition of Funds.**
1. Monies received under the provisions of paragraph A. of this section shall be allocated to and used from the following separate accounts as follows: 50% into the Community Park development account; 35% into the Neighborhood Park development account; and 15% into the Mini Park development account. If a Mini Park is not developed within three (3) years of receipt of such monies, the monies shall revert to the Neighborhood park development account. If a Neighborhood Park is not developed within five (5) years of receipt of such monies, the monies shall revert to the Community Park development account.
  2. Such monies shall be used exclusively for site acquisition or development of lands and related improvements that will serve the City's park, recreation and general open space needs resulting from such new residential development.
  3. Payments required under the provisions hereof shall be made at the time the plat is submitted for final approval.
- C. Planned Developments.** Where lands have been reserved in private ownership under the "Planned Development" provisions of the zoning ordinance to meet the park, recreation and general open space needs of the development, such reservation may be considered to be in lieu of the equivalent dedication requirement for such purposes, provided, however, that suitable "open space easements" have been conveyed to the City to insure the permanent retention of such lands for such purposes. Notwithstanding the foregoing, school land dedication shall be required in any case.

**18.09.000 SUBDIVISION CREATED BY SUCCESSIVE DIVISIONS.**

**18.09.010 Assessor's Plat.** Where it is not practical to be filed in accordance with this chapter, the Common Council may in lieu of thereof order an assessor's plat to be made under Section 70.27 of the Wisconsin Statutes and may assess the cost thereof as provided in such section, or to the subdivider.

**18.09.020 Reasonable Compliance.** Regardless of the type of plat filed, any such subdivision shall comply with all provisions of this chapter to the extent that they may be reasonably applied.

**18.10.000 EXISTING SUBSTANDARD LOTS.**

**18.10.010 Conveyance Restricted.** In the case of a lot of record at the time of the passage of this chapter which does not conform to the zoning regulations to the City of Port Washington, and which adjoins along a side lot line property held in the same ownership, no such lot shall be conveyed to another owner nor shall a building permit be issued for a structure on such a lot except in conformity with the following:

1. **Petition for Determination.** The owner of such substandard lot may at any time prior to the proposed conveyance of such lot or request for building permit, petition the City for determination as to the status of such lot.
2. **Referral to Plan Commission.** Such petition shall be referred to the Plan Commission for study to determine the practical possibility of a redivision of such ownership to provide lots, which will be in conformity to the zoning regulations of the City.
3. **Time Limit.** The Plan Commission shall complete its study and determination within 40 days of the date the petition was received.
4. **Criteria.** The Plan Commission in making its determination shall give consideration, among others, to the following factors:

**Compatibility.** The size, quality and character of existing lots and building development in the immediate area with a view to maintaining compatibility and protecting existing values.

**Sewerage Disposal.** Where public sewer is not available, the lot size necessary to insure sewerage disposal.

**Practicability.** The economic and engineering practicability of any possible redivision.

**Hardship.** The degree of practical hardship which may be imposed upon the owner.

5. **Method of Redivision.** Such redivision may be accomplished as is most appropriate by:

Vacation and replatting of all or a part of a recorded plat.

Combining of lots or parts of lots.

Redefining of lot lines by a plat or “other divisions” as provided by Section 18.04 (2) of this chapter.

**18.10.020 Determination of Ownership.** For the purpose of this section, lots and property shall be considered in the same ownership when owned by: the same individual or corporations; and individual and another in joint tenancy, or as tenants in common, and either of said joint or common tenant or tenants owns other lots individually or as joint tenant or tenant in common with another; an individual and other lots are owned by his spouse, parents, grandparents, children, grandchildren or the spouse of any child or grandchild, or a brother or sister of spouse or a brother or sister of such person; and when any of said lots are owned by a corporation in which said individual is an officer or director of controlling stockholder.

**18.11.000 REGULATION FOR CONSTRUCTION OF HIGHWAY OR DRIVEWAY TO SERVE MORE THAN ONE PARCEL OF LAND.**

**18.11.010 Permit Required.** No person, firm or corporation shall construct or permit to be constructed within the City any highway or driveway arranged or planned to serve more than one parcel of land for residential purposes, unless a license or permit shall first be obtained from the City Clerk.

**18.11.020 Approval.** No such license or permit shall be issued until the plans and specifications for such highway or driveway shall be approved by the City Engineer as to specifications, and by the Commission Council after reference of such matter to the City Plan Commission as to location, width, and general plan.

**18.12.000 VARIANCES.** When, in the judgment of the Plan Commission or the Common Council, it would be inappropriate to apply literally a provision of this chapter because the subdivision is located outside the corporate limits or because extraordinary hardship would result, the Common Council upon considering the recommendation of the Plan Commission may waive or vary such provisions so that substantial justice may be done and the public interest secured, provided that in no event shall the requirement of filing and recording the plat or survey be waived.

**18.13.000 PENALTY.** Any person who shall violate any provision of this chapter or any files and regulations adopted hereunder shall be subject to a penalty provided in Section 25.04.

**18.14.000 IMPACT FEES.**

18.14.010 Legislative Findings: The City of Port Washington Common Council finds, determines and declares that:

- A. The City of Port Washington has expanded or must expand certain facilities, requiring major capital improvements in order to maintain current levels of service if new development is to be accommodated without decreasing current levels of service. This must be done in order to promote and protect the public health, safety and welfare;
- B. The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare;
- C. Each of the types of land development described in this ordinance, will create a need for the construction, or expansion of capital facilities.
- D. The fees established by Section 18.04.070 are derived from, are based upon, and do not exceed the costs of providing additional public facilities necessitated by the new land developments for which the fees are levied.
- E. The report entitled "City of Port Washington Public Facilities Needs" dated March 1, 1995, and the revised version thereof dated March 31, 2000 (including the "ENGINEER'S REPORT," "IMPACT FEE CALCULATIONS," "DESIGN STUDY REPORT FOR EXPANSION OF THE NIEDERKORN LIBRARY," and all Appendices and attachments thereto), set forth reasonable methodologies and analyses for the assessment and determination of the impact of new development on the need and costs for additional facilities in the City of Port Washington.

**18.14.020 Title, Authority.**

- A. This ordinance shall be known and may be cited as the "City of Port Washington Impact Fee Ordinance".
- B. The City of Port Washington Common Council has the authority to adopt this ordinance pursuant to Chapter 66 of the Wisconsin State Statutes.

**18.14.030 Intent and Purpose.**

- A. This ordinance is intended to assist in the implementation of the City of Port Washington Comprehensive Plan.
- B. The purpose of this ordinance is to assure that new land development bears a proportionate share of the cost of capital expenditures necessary to provide needed improvements or expansion of existing public facilities in the City of Port Washington required by such new land development.

**18.14.040 Rules of Construction.**

- A. The provisions of this ordinance shall be liberally construed so as to effectively carry out its purpose in the interest of public health, safety and welfare.
- B. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:
  - 1. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
  - 2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
4. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, or “either...or”, the conjunction shall be interpreted as follows:
  - (a) “And” indicates that all the connected terms, conditions, provisions or events shall apply.
  - (b) “Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - (c) “Either...or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
5. The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
6. “Administrator” means the City Administrator or the municipal officials he/she may designate to carry out the administration of this ordinance. Any municipal official so designated shall be approved by the appropriate municipality before exercising duties hereunder.

#### **18.14.050 Definitions.**

- A. “Capital costs” means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless the political subdivision can demonstrate that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of capital costs. “Capital costs” does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities.
- B. “Capital Improvement” includes parks planning, land acquisition, site improvements, buildings, but excludes maintenance and operation.
- C. “City of Port Washington Comprehensive Plan” means a long range master plan which includes the following component plans: Land Use Plan; Environmental Plan; Park, Recreation and Open Space Plan; and Transportation Plan.
- D. “Developer” means a person that constructs or creates a land development.
- E. “Impact fees” means cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer by a political subdivision under this section.
- F. “Land development” means the construction or modification of improvements to real property that creates additional residential dwelling units within a political subdivision or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a political subdivision.
- G. “Political subdivision” means a city, village, town or county.

- H. "Public facilities" means highways as defined in s.340.01 (22), and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing and distributing water, parks, playgrounds and other recreational facilities, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. "Public facilities" does not include facilities owned by a school district.
- I. "Service area" means a geographic area delineated by a political subdivision within which there are public facilities.
- J. "Service standard" means a certain quantity or quality of public facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the political subdivision.

**18.14.060 Imposition of the Impact Fees.**

- A. The City Council shall prepare or direct the preparation of a Public Facilities Needs Assessment including, but not limited to, those items and considerations set forth at s. 66.55 (4). Impact fees imposed herein shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.
- B. Any person who, after the effective date of this ordinance, applies for a building permit for land development or an extension of such building permit, is hereby required to pay an impact fee in the manner and amount set forth in this ordinance.
- C. No building permit for land development will be issued until the impact fee herein required has been determined and paid.

**18.14.070 Calculation of the Impact Fees.**

- A. The city administrator shall calculate the fee separately for each improvement and for each property, in the following manner:
  - 1. Population growth projections. The city administrator shall estimate the current and future city populations, based on data available to the city from the US Census Bureau; the State of Wisconsin; Southeastern Wisconsin Regional Planning Commission; or any other source, or combination of sources, as determined by the city administrator. The city administrator shall then calculate the projected growth in population expected over the projected life of the debt service for the facility or, if none, over fifteen (15) years, based on the population estimates. The current combined commercial and industrial area shall be estimated by dividing the equalized value of all commercial and industrial property in the city. Said value per square foot shall be adjusted annually for inflation based on consumer price index, all city average (north central) for the period ending June 30. The same growth factor applied to population is then applied to commercial and industrial property.
  - 2. Facility data. The cost of the facility being constructed or improved is estimated. The portion of the cost which is attributable to the accommodation of future growth shall be calculated from those figures,

and then converted to cost per new resident or cost per new square foot of commercial and industrial value, as appropriate.

3. Debt service. The city administrator shall calculate the annual debt service on the portion of the facility built for future growth, and the tax rate required to support that level of debt service.
4. Fee calculation when impact fee imposed on property zoned commercial or industrial. The city administrator shall determine the estimated average square footage for each type of commercial property, based on the most recent figures available. The gross impact fee shall be determined as follows: Per square foot facility cost attributable to growth x average square footage per property x the ratio of commercial equalized valuation to the sum of total residential and commercial and industrial valuation. The gross impact fee shall be reduced by a credit, determined by calculating the present value of all future taxes to be paid by the property to retire the debt service on which the impact fee is based, resulting in a net impact fee. The same formula shall be used for calculating industrial gross impact fees.
5. Fee calculation when impact fee imposed on property zoned residential. The city administrator shall determine the estimated average population for each type of residential dwelling, based on the last decennial federal census figures available. The gross impact fee shall be determined as follows: Per capita facility cost attributable to growth x average population per dwelling x the ratio of residential equalized valuation to the sum of total residential and commercial and industrial valuation. The gross impact fee shall be reduced by a credit, determined by calculating the present value of all future taxes to be paid by the property to retire the debt service on which the impact fee is based, resulting in a net impact fee. In determining the future taxes to be paid by the property, the property shall be assigned the following equalized value: The average equalized value of all properties having the same zoning description (which may encompass more than one zoning district), using a three-year average for the three calendar years immediately preceding the submission or application giving rise to imposition of the impact fee. For this purpose, CCM multi-family (central city mix), or a similar zoning designation, shall be considered a residential use.

#### **18.14.080 Fee Payment.**

- A. The feepayer shall pay the impact fee required by this ordinance to the city administrator, or his/her designee, before the building permit for land development will be issued.

#### **18.14.090 Administration of Impact Fees.**

- A. A separate impact fee trust account shall be established for each public facility for which impact fees are calculated.
- B. Upon receipt of impact fees, the city accounting department shall be responsible for placement of such funds into separate accounts. All such funds shall be deposited in interest bearing accounts in a bank authorized to receive deposits of

- city funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account.
- C. The city accounting department shall maintain and keep accurate financial records for each account that shall show the source and disbursement of all revenues; that shall account for all monies received; that shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program; and that shall provide an annual accounting for each impact fee account showing the source and amount of all funds collected and the projects that were funded.
  - D. Funds withdrawn from these accounts must be used in accordance with the provisions of Section 18.14.100 of this ordinance.

**18.14.100 Use of Funds.**

- A. Funds collected from impact fees shall be used solely for the purpose of constructing, expanding or improving public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve such public facilities, and shall not be used for maintenance or operations.
- B. Funds shall be expended in the order in which they are collected.
- C. In the event that bonds or similar debt instruments are issued for advanced provisions of capital facilities for which impact fees may be extended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities are of the type described in paragraph A above.
- D. At least once each fiscal period the administrator shall present to the Common Council a proposed capital improvement program for assigning funds, including any accrued interest, from the Impact Fee Trust Accounts to specific improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Impact Fee Trust Accounts until the next fiscal period except as provided by the refund provisions of this ordinance.
- E. Funds may be used to provide refunds as described in Section 18.14.110.

**18.14.110 Refunds.**

- A. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the impact fee was paid shall, upon application of the then current landowner, be returned to such landowner provided that the landowner submits an application for a refund to the administrator within 180 days of the expiration of the six year period.

**18.14.120 Exemptions.**

- A. The following shall be exempted from payment of the impact fee:
  - 1. Alterations or expansion of an existing building where no additional residential units are created, or where the use is not changed.
  - 2. The construction of accessory buildings or structures.
  - 3. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.

- B. Any claim of exemption must be made no later than the time of application of a building permit for land development. Any claim not so made shall be deemed waived.

**18.14.130 Penalty Provision.**

- A. Violation of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution, the City of Port Washington shall have the power to sue in civil court to enforce the provisions of this ordinance.
- B. Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

**18.40.140 Appeal.**

- A. Any developer upon whom an impact fee has been imposed may contest the amount, collection or the use of the impact fee in the manner provided herein. However, it shall be a condition to the commencement of such an appeal that the impact fee from which the developer appeals shall be paid as and when the fee (or a permitted installment thereof) becomes due and payable, and, upon default in making any such payment, such appeal may be dismissed. Such appeal shall be in writing, addressed to the Common Council and filed with the City Clerk. A copy of the written appeal shall be forwarded to the appropriate department head who shall submit a written report and recommendation to the Common Council within ten (10) days of the department head's receipt of a copy of such appeal. At its next regular meeting, the Common Council shall review said report and recommendation, and adopt a proposed resolution of the matter and the City Clerk shall mail a copy of the report and recommendation and the proposed resolution to the developer via certified mail-return receipt requested. If the developer still wishes to contest the matter, the developer may, within ten (10) days of the date of the developer's receipt of such proposed resolution, file a written request with the City Clerk that a hearing be held on the matter. If such hearing request is received by the City Clerk within five (5) days or more of the date of the Common Council's next regular meeting, the Council shall hear the matter at said meeting; if such hearing request is received less than five (5) days from the date of the Council's next regular meeting, the matter shall be heard at the next succeeding Council meeting. After fully hearing the matter, the Common Council shall reduce its findings and decision to writing within ten (10) days, and the City Clerk shall send a copy thereof to the developer via certified mail-return receipt requested. If the developer still wishes to contest the matter, the developer may file a writ of certiorari with the circuit court within thirty (30) days of the date of receipt of the Common Council's decision.
- B. As provided by sec. 66.55(10), Stats., the only matters appealable under this section are the following:
  - 1. The amount of the impact fee charged and paid by the developer;
  - 2. The method of collection of the impact fee;

3. The use to which the impact fee paid by the developer is made by the City.

**18.14.150 Severability.**

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**18.15.000 STORMWATER MANAGEMENT.**

**18.15.010 PURPOSE, INTENT, AND FINDINGS OF FACT.**

- A. **PURPOSE.** The general purpose of this ordinance is to set forth storm water requirements and criteria that will diminish the threats to public health, safety, welfare, and the aquatic environment due to runoff of storm water from land development activity. Specific purposes are to:
  1. Further the maintenance of safe and healthful conditions.
  2. Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; and protect spawning grounds, fish and aquatic life.
  3. Assure the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
  4. Control building sites, placement of structures and land uses; and promote sound economic growth.
- B. **INTENT.** The intent of this ordinance is to manage the long-term, post-construction storm water discharges from land development activities. Where such system plans have been developed and approved by the City, it is the intent that all land development activities will include storm water management measures that meet performance standards set forth in those approved plans. Where such storm water management system plans have not been developed or approved, it is the intent of the City that the generic storm water management standards set forth be applied unless otherwise excepted by the City Engineer.
- C. **FINDINGS OF FACT.** This ordinance is based on the finding 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 stream bank erosion, increasing stream bed 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 loadings 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, drainage ways, and other minor drainage facilities.
6. Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes.
7. Undermine floodplain management efforts by increasing the incidence and levels of flooding.
8. Aggravate excessive infiltration and inflow of water into sanitary sewer connections during peak storm events causing the conveyance system to surcharge, overflow or backup into basements.

**18.15.020** **DEFINITIONS.** As used in ss. 18.15.000, et seq. relating to storm water management regulations:

- A. "AGRICULTURAL" means the planting, growing, cultivating, and harvesting of crops; growing and tending of gardens, and trees; harvesting of trees.
- B. "BEST MANAGEMENT PRACTICES" 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, or to manage the rate or volume of runoff.
- C. "BUSINESS DAY" means a day the City Engineer's office is routinely and customarily open for business.
- D. "CEASE AND DESIST ORDER" means a court-issued order to halt land developing activity that is being conducted without the required permit.
- E. "CITY PERSONNEL" or "AUTHORIZED PERSONNEL" means employees of the City of Port Washington or those agents authorized by the City Engineer, Board of Public Works or the Common Council to implement these storm water management regulations.
- 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. "DESIGN RAINFALL" OR "DESIGN STORM" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total rainfall depth.

- H. “DISCHARGE VOLUME” means the quantity of runoff discharged from the land surface as the result of a rainfall event.
- I. “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 this ordinance.
- J. “FINANCIAL GUARANTEE” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City by the permit holder to assure that requirements of this ordinance are carried out in compliance with the storm water management plan.
- K. “GROSS AGGREGATE AREA” means the total area, in acres, of all land located within the property boundary containing the land development activity.
- L. “GROUNDWATER ENFORCEMENT STANDARD” means a numerical value expressing the concentration of a substance in groundwater, which is adopted under s. 160.07, Wis. Stats. and s. NR 140.10, Wis. Adm. Code, or s. 160.09, Wis. Stats., and s. NR 140.12, Wis. Adm. Code.
- M. “GROUNDWATER PREVENTIVE ACTION LIMIT” means a numerical value expressing the concentration of a substance in groundwater which is adopted under s. 160.15, Wis. Stats. and ss. NR 140.10, 140.12 or 140.20, Wis. Adm. Code.
- N. “IMPERVIOUS SURFACE” means a surface that releases the rainfall as surface runoff during a large portion of the design rainfall event. Rooftops, sidewalks, driveways, parking lots and street surfaces are examples of impervious surfaces.
- O. “INFILL AREA” means an undeveloped area of land located within existing development.
- P. “INFILTRATION” means the process by which rainfall or surface runoff percolates or penetrates into the underlying soil.
- Q. “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.
- R. “KARST FEATURE” means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
- S. “LAND DEVELOPMENT ACTIVITY” means any construction or re-development of buildings, roads, parking lots, paved and unpaved storage areas, and similar facilities, but not including agricultural activity.
- T. “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.

- U. “MAINTENANCE AGREEMENT” means a legal document that is recorded with the Ozaukee County Register of Deeds as a property deed restriction or restrictive covenant, and which provides for long-term maintenance of storm water management practices.
- V. “MAXIMUM EXTENT PRACTICABLE” or “MEP” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- W. “NON-STORM DISCHARGE” means a discharge to the storm sewer system created by a process other than storm water runoff.
- X. “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.
- Y. “OFF-SITE” means located outside the property boundary described in the permit application for the land development activity.
- Z. “ON-SITE” means located within the property boundary described in the permit for the land development activity.
- AA. “ORDINANCE” or “THIS ORDINANCE” means ss. 18.15.000, et seq. relating to storm water management regulations, as amended from time to time.
- BB. “ORDINARY HIGH-WATER MARK” has the meaning given in s. NR 115.03(6), Wis. Adm. Code.
- CC. “OTHER THAN RESIDENTIAL DEVELOPMENT” means development of the following land uses: commercial; industrial; government and institutional; recreation; transportation, communication, and utilities.
- DD. “OUTSTANDING RESOURCE WATERS” means waters listed in s. NR 102.10, Wis. Adm. Code.
- EE. “PEAK FLOW DISCHARGE RATE” means the maximum rate at which a unit volume of storm water is discharged.
- FF. “PERCENT FINES” means the percentage of a given sample of soil, which passes through a # 200 sieve.
- GG. “PERFORMANCE STANDARD” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

- HH. "PERVIOUS SURFACE" means a surface that infiltrates rainfall during a large portion of the design rainfall event. Well-managed lawns, parks, fields, woodlands, or other vegetated areas are examples of surfaces that are typically pervious.
- II. "POLLUTANT" has the meaning given in s. 283.01(13), Wis. Stats.
- JJ. "POLLUTION" has the meaning given in s. 283.01(10), Wis. Stats.
- KK. "POST-CONSTRUCTION SITE" means a construction site following the completion of land disturbing construction activity and final site stabilization.
- LL. "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.
- MM. "POST-DEVELOPMENT CONDITION" means the extent and distribution of land cover types, anticipated to occur under conditions of full development that will influence storm water runoff and infiltration.
- NN. "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.
- OO. "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.
- PP. "PREVENTIVE ACTION LIMIT" has the meaning given in s. NR 140.05(17), Wis. Adm. Code.
- QQ. "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 similar recreational activities not involving the use of motorized vehicles, and not a sidewalk under s. 340.01(58), Wis. Stats.
- RR. "REDEVELOPMENT" means new construction or replacement of older development.
- SS. "REGIONAL FLOOD" means the peak flow and peak elevation of water with a one percent (1%) probability of occurring during any one year, considering rainfall time and intensity patterns, rainfall duration, area distribution, antecedent moisture, and snow melt. [NOTE: The common misnomer, "100-year flood or floodplain" implies a temporal element rather than a one in 100 random probability of the event.]
- TT. "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 includes single family, multi-family, apartments, and trailer parks.

- UU. “RESPONSIBLE PARTY” means any person or entity holding fee title to the property or other person or entity contracted or obligated by other agreement to implement and maintain post-construction storm water best management practices.
- VV. “RUNOFF” or “STORM WATER 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.
- WW. “SITE” means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- XX. “SITE RESTRICTION” means any physical characteristic which limits the use of a storm water best management practice as prescribed in the latest edition of the Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines for Storm Water Best Management Practices, as published and amended from time to time by the state Department of Natural Resources.
- YY. “STOP WORK ORDER” means an order issued by the City Engineer that all construction activity on a site be stopped.
- ZZ. “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 purpose and intent of this ordinance.
- AAA. “STORM WATER MANAGEMENT SYSTEM PLAN” means a comprehensive plan developed to address storm water drainage and non-point source pollution control problems on a watershed or sub-watershed basis, and which meets the purpose and intent of this ordinance.
- BBB. “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.
- CCC. “SURFACE WATER” means a “navigable” body of water as that term is defined in s. 281.31(2)(d), Wis. Stats., as amended from time to time.
- DDD. “TECHNICAL STANDARD” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- EEE. “TIME OF CONCENTRATION” means the time period for the furthest runoff from the outlet of a watershed to contribute to flow at the watershed outlet.
- FFF. “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.

- GGG. "TR-55" means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.
- HHH. "TYPE II DISTRIBUTION" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973." The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- III. "WATERS OF THE STATE" has the meaning given in s. 281.01(18), Wis. Stats. It generally refers to those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or its jurisdiction.
- JJJ. "WATER QUALITY MANAGEMENT" means the storm water standards and duties established under the Clean Water Act, 33 U.S.C. 1251 et. seq., parallel state law regulating the discharge of pollutants, and implementing regulations.
- KKK. "WATER QUANTITY MANAGEMENT" means storm water duties and practices to abate peaks flood flows during regional storm events as implemented and enforced by this municipality.

**18.15.030 STORM WATER MANAGEMENT PLAN AND FACILITIES REQUIRED.**

- A. **PLAN AND FACILITIES REQUIRED.** No person shall proceed with any residential, commercial, industrial, or institutional land development or redevelopment or with land subdivision without providing appropriate storm water management plans and facilities that adequately control storm water runoff from such development, redevelopment, or subdivided property.
- B. **PRE-SUBMITTAL CONFERENCE REQUIRED.** Prior to the preparation of the storm water management plan, a pre-submittal conference with the City is required. The review of storm water management plans shall begin only after a pre-submittal conference is held, and no permit application and storm water management plan shall be considered complete prior to such conference.
- C. **STORM WATER MANAGEMENT PLAN SUBMITTAL REQUIRED.** A site-specific storm water management plan must be submitted and approved by the City before any required new storm water management facilities are constructed, unless exempted or waived pursuant to the provisions of this ordinance. An approved site-specific storm water management plan is also required before an existing drainage system is relocated, deepened, widened, enlarged, filled, obstructed or otherwise altered in preparation for land development, redevelopment, or subdivision activity. The plan must be submitted and approved before any land development activity is commenced or a subdivision plat or certified survey map is approved by the City and recorded.

**18.15.040 APPLICABILITY, JURISDICTION, COMITY AND EXEMPTIONS.**

- A. **APPLICABILITY.** This ordinance applies as set forth hereinbelow to land development activities that meet applicability criteria specified in this Section.

This ordinance also applies as set forth hereinbelow to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale that meets any of the following applicability criteria, even through multiple separate and distinct land development activities may take place at different times on different schedules:

1. Land development activity that involves an increase of one-half acre (21,780 square feet) or more of impervious surface but less than 1.0 acre (43,560 square feet) of land development activity shall be subject to discharge quantity standards only, as set forth in Section 18.15.050 B.
2. Both discharge quantity and quality standards as set forth in Sections 18.15.050 B. and D. shall apply to any land development activity which disturbs one acre (43,560 square feet) or more regardless of the amount of additional impervious surface created.
3. For phased developments, the cumulative effect of all phases shall be considered. Discharge quantity standards shall apply if the cumulative amount of new impervious surface is one-half acre (21,780 square feet) or more, even if the individual components of a development each create less than one-half acre of impervious surface. Both discharge quantity and quality standards shall apply if the cumulative amount of land development activity disturbs one acre (43,560 square feet) or more, even if the individual components of a development each disturb less than one acre of land.
4. Land development activity of any size that, in the opinion of the City Engineer, is likely to result in storm water runoff which exceeds the safe capacity of existing drainage facilities, storage facilities, or receiving surface waters, which may cause surcharging and increase flooding risks, which causes undue channel erosion, unreasonably increases surface water pollution by scouring or the transportation of particulate matter, or endangers downstream property on a surface water shall be subject to discharge quantity and quality standards as set forth in Sections 18.15.050 B. and D.

**B. JURISDICTION.** This ordinance applies to all lands and waters, and all land development, redevelopment and land subdivision activities within the boundaries of the City of Port Washington, Wisconsin.

**C. COMITY.** State agencies should design and incorporate best management practices for surface water quality and storm water quantity management for new impervious surfaces. The runoff management techniques should be the same as flood abatement plans and techniques utilized by local governments in the watershed. The lead agency preparing an environmental assessment for a federal or state project shall identify the mitigating runoff management techniques to prevent increases in peak flood flows from new impervious areas.

**D. EXEMPTIONS FROM DISCHARGE QUANTITY REQUIREMENTS.** The following activities are exempt from discharge quantity requirements:

1. Residential infill where the lot is five acres or less, the development is exclusively residential, the net increase in the area of impervious surface is less than 20% of the area of the site, and each boundary of the site is contiguous to sites that contain existing development at the time the City receives the plans for the new development.
2. Development or redevelopment activity where the area of impervious surface after development or redevelopment will be 5% or less of the area of the site.
3. Development activity located in sites riparian to Lake Michigan where (a) site runoff is directly discharged into Lake Michigan; and (b) the City Engineer has determined that bluff erosion protection has been appropriately provided.
4. Construction of recreational trails if the trail width is 10 feet or less and the trail has a continuous buffer at least 5 feet wide on each side, disregarding interruption by streets, driveways or other impervious surfaces crossing the trail.

**E. EXEMPTIONS FROM DISCHARGE QUALITY REQUIREMENTS.** The following activities are exempt from discharge quality requirements:

1. A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.
2. 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. Underground utility construction such as water, sewer and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

**F. EXEMPTIONS FROM DISCHARGE QUANTITY AND QUALITY REQUIREMENTS.** The following activities are exempt from both discharge quantity and quality requirements:

1. Development approved by the City before the effective date of this ordinance, provided that the approval had sufficient finality to create a vested right to proceed with the development.
2. Maintenance, alteration, use or improvement to an existing structure, or construction activity which does not significantly change or affect the water quality, hydrologic and hydraulic characteristics of the surface water discharge.
3. Storm water management facilities to be constructed or measures to be undertaken by the City when the City has determined that a storm water management plan is not required.

4. Facilities, or portions thereof, for which a special exception is granted under Section 20.08.000 of the Zoning Ordinance of the City of Port Washington.

**18.15.050 STORM WATER MANAGEMENT CONCEPTS, STANDARDS, METHODS.**

**A. STORM WATER MANAGEMENT CONCEPTS.**

1. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this ordinance.
2. Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
3. Storm water management facilities shall utilize the following techniques, in descending order of preference:
  - a. Preservation of the natural features of development sites, including natural storage and infiltration characteristics.
  - b. Preservation and restoration of existing wetlands, native vegetation, natural streams, channels and drainage ways, as appropriate.
  - c. Utilization of constructed wetlands, high quality aquatic vegetation, and construction methods that create natural settings and aesthetic enhancements whenever appropriate and possible.
  - d. The use of multiple BMPs to create treatment trains that maximize the effectiveness of pollution reduction benefits of each BMP.
  - e. Minimization of new impervious surfaces.
  - f. Conveyance of storm water in open vegetated channels.
  - g. Construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites.
  - h. Construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.
4. The site-specific storm water management system plan required under the provisions of this ordinance shall be designed in accordance with good engineering practice. The specific methods to be used in the calculation of peak rates of discharge, volumes, and water quality conditions and of the hydraulic capacities of storage and conveyance

facilities shall be left to the judgment of the professional engineer preparing the plan subject, however, to the approval of the City.

5. The site-specific storm water management system plan shall be designed so that natural topography and land cover features such as swales, natural streams, channels, drainage ways, natural depressions, native soil infiltrating capacity and natural groundwater recharge areas shall be preserved and used to the maximum extent practicable.
6. Those components of storm water structures that handle peak flows shall be designed in accordance with standard engineering practices.
7. Runoff volumes and peak flow rates used in designing the water quantity components of storm water structures shall be based on the principles of the document entitled "Urban Hydrology for Small Watersheds" (Technical Release 55: Engineering Division, Soil Conservation Service, United States Department of Agriculture, June 1992).
8. The most recent rainfall depth data available from the Southeastern Wisconsin Regional Planning Commission or more protective data shall be the basis for the analyses required by this ordinance.
9. The conveyance and storage facilities incorporated into the site-specific storm water management system plan required under this ordinance shall be designed as an integral part of complementary minor and major subsystems.
10. The minor subsystem, generally consisting of the proposed on-site storm water conveyance facilities such as storm sewers and storm drains, shall be designed to avoid nuisance flooding of streets and yards and shall accommodate the peak rate of runoff from rainfall events up to and including the 25-year recurrence interval event for arterial streets and rainfall events up to and including the 10-year recurrence interval event for all other streets. No storm sewer pipe shall be less than 12 inches in diameter. The rainfall intensity and depth shall be determined based on appropriate times of concentration from relationships established and published by the Southeastern Wisconsin Regional Planning Commission.
11. The complementary major subsystem shall consist of the public streets and interconnected flow paths to the streets and from the streets to receiving streams and watercourses. The major subsystem shall be designed to accommodate peak rates of discharge from rainfall events up to and including the 100-year recurrence interval event with a two-foot freeboard.
12. Unless otherwise provided for, 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. On-site management practices shall be used to meet the minimum performance standards as set forth in this ordinance.

**B. PEAK RUNOFF DISCHARGE PERFORMANCE STANDARDS.**

1. The peak flow discharge rates of storm water runoff under the post-development conditions shall be controlled and reduced as follows:
  - a. 100-year post-development peak runoff discharge shall not exceed the lesser of the following:
    - i. 2-year pre-development peak runoff discharge;
    - ii. Maximum hydraulic capacity of existing downstream conveyance, drainage or storage facilities; or
    - iii. Unit discharge rates established in the City of Port Washington Storm Water Management Plan.
  - b. 2-year post-development peak runoff discharge shall not exceed the 2-year pre-development peak runoff discharge.
  - c. The design rainfall used for storm water management facility design shall be the 2-year and 100-year recurrence interval, 24-hour duration events with a SCS TYPE II distribution with the latest rainfall depths as determined by Southeastern Wisconsin Regional Planning Commission.
2. Any storm water management pond shall fully contain the runoff from the tributary watershed area during the 100-year, 24-hour rainfall with a SCS TYPE II distribution under the post-development conditions. The tributary watershed area consists of all on-site and off-site areas draining to the pond.
3. Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
4. If surface runoff leaves the site at more than one location, discharge at each location must individually meet the standards set forth in this ordinance. The discharge comparisons shall be made at storm water conveyance facilities (e.g., ditches, culverts, storm sewers, storm water detention ponds, channels, streams, etc.) that are located immediately downstream of each discharge location of the site.
5. Negative impacts to the hydraulic performance of downstream conveyance or storage facilities shall be avoided. Where such changes are proposed, the impact of the proposal on existing storm water detention ponds shall be assessed using a methodology acceptable to the City.
6. All storm water runoff conveyance facilities within the boundaries of the property that is being developed shall be sized to adequately carry the runoff from a 10-year recurrence interval rainfall. In some cases, less sophisticated computation methods such as the Rational Method may be used with prior written approval by the City Engineer.

7. For storms exceeding the design capacity of the conveyance system, overland drainage routes shall direct the excess runoff to any storm water management pond(s) proposed for the site.
8. The maximum NRCS curve numbers that can be used in the TR-55 analysis of pre-development conditions are set forth in Table 1. If other methods for computing runoff are used, these shall assume comparable runoff parameters.

Table 1	
Land Cover	Curve Number
Wooded areas	65
Open meadow	70
Lawns and residential and commercial landscaped areas	72
Cropland	75
All impervious surfaces, including roofs, driveways, parking lots, streets and sidewalks, etc.	98
Water surface	99

**C. STORM WATER MANAGEMENT CREDITS.**

The intent of this ordinance is to manage the long-term, post-construction storm water discharges from land development activities with the purpose of diminishing the threats to public health, safety, welfare, and the aquatic environment due to runoff of storm water. Accordingly, the kind of development approach that avoids and minimizes such threats is highly desirable. The City Engineer, upon review of the development proposal and the accompanying storm water management plan, shall consider the presence of the following project elements in determining the suitability of a credit in peak discharge limits at the site in accordance with this ordinance and the procedures established in the City of Port Washington Storm Water Management Plan. Credits shall be cumulative for each criterion satisfied as listed hereinbelow:

1. Identification of resources that will be impacted by the project. Satisfactory consideration of this item will allow a 1.0% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.
2. Identification of an overall goal, including, but not limited to, forest stewardship, water quality preservation and enhancement, farmland preservation, natural habitat restoration, preservation of scenic beauty, archaeological and historic properties preservation, integration of ecological resources or passive recreational uses in development. Satisfactory consideration of this item will allow a 2.0% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.
3. Management of runoff close to its source. Satisfactory consideration of this item will allow a 2.0% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.
4. Engagement of natural processes such as infiltration and vegetative uptake in storm water management. Satisfactory consideration of this

item will allow a 2.5% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.

5. Use of site layout, design, construction, and management techniques that achieve multiple storm water management objectives such as groundwater recharge, discharge rate control, runoff volume control, water quality improvement, and temperature controls. Satisfactory consideration of this item will allow a 2.5% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.
6. Effort to preserve natural resources in and around the project site to the maximum extent practicable, including an effort to avoid the isolation of natural resources within the site. Satisfactory consideration of this item will allow a 3.0% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.
7. Effort to minimize site grading impacts, including construction and scheduling provisions that limit the amount of bare earth during construction. Satisfactory consideration of this item will allow a 3.0% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.
8. Effort to control total imperviousness to minimize the change in post development CN and to maintain the pre-development Time of Concentration. Satisfactory consideration of this item will allow a 3.0% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.
9. Effort to increase the aesthetic value of the proposed development and storm water management facilities through design. Satisfactory consideration of this item will allow a 3.0% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.
10. Integration of proposed storm water management facilities into the natural environment through placement, landscaping, and maintenance. Satisfactory consideration of this item will allow a 3.0% increase in the post-development discharge limit established in Sections 18.15.050 B.1.a. and b.

**D. RUNOFF QUALITY PERFORMANCE STANDARDS.** Unless otherwise provided, all land development activities subject to this ordinance shall establish on-site management practices to control the quality of storm water discharged from the site. On-site management practices shall be used to meet the following minimum standards:

1. Technical standards identified, developed or disseminated by the state Department of Natural Resources under subchapter V of ch. NR 151, Wis. Adm. Code.
2. Where technical standards have not been identified or developed by the state Department of Natural Resources, other technical standards may

be used, provided that the methods have been approved by the City Engineer.

3. The most recent rainfall data available from the Southeastern Wisconsin Regional Planning Commission or more protective data shall be the basis for the analyses required by this ordinance.
4. Storm water discharges shall be treated to remove, on an average annual basis, a minimum of 80% of the total suspended solids load. To achieve this level of control, storm water practices shall be designed in accordance with the methods set forth in the latest edition of the "Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines for Storm Water Best Management Practices," as published and amended from time-to-time by the state Department of Natural Resources.
5. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subsection.
6. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subsection.
7. For in-fill development less than 5 acres that occurs within 10 years after the effective date of this ordinance, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subsection.
8. For in-fill development that occurs 10 or more years after the effective date of this ordinance, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subsection.
9. Notwithstanding subsecs. 5 to 8, hereinabove, if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation, to the satisfaction of the City Engineer, why that level of reduction is not attained and why the total suspended solids load shall be reduced to the maximum extent practicable.
10. The proposed storm water quality improvement and pollution reduction measures may include wet detention/retention ponds, infiltration devices, filter strips, grass swales, oil-grit separator devices

or a combination of structural best management practices recognized and endorsed in the latest edition of the “Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines for Storm Water Best Management Practices,” as published and amended from time-to-time by the state Department of Natural Resources.

11. If storm water quality ponds are proposed, such ponds shall be designed and constructed so that:
  - a. Permanent wet detention volume of the facility shall be equal to or greater than the runoff volume resulting from a 1.5-inch, 4-hour rainfall with a Huff Distribution over the area under post-development conditions.
  - b. The minimum permanent pond surface area shall be:
    - i. 1.0% of the drainage area for residential development.
    - ii. 2.0% of the drainage area for business and institutional development.
    - iii. 2.5% of the drainage area for highways, commercial and manufacturing development.
  - c. Water quality ponds shall have a sediment forebay area at the pond inlet location. The surface area of the forebay shall be a minimum of 12% of the total permanent pond surface area corresponding to the normal water elevation.
12. Runoff within a non-navigable drainage way that flows into a BMP, such as a wet pond, is not required to meet water quality performance standards unless designed to provide treatment.
13. The discharge of runoff from a BMP, such as a wet pond, or after a series of such BMPs, is subject to this ordinance.
14. If infiltration practices are proposed, runoff shall be pre-treated prior to infiltration where necessary to prolong maintenance of the infiltration practice and to prevent discharge of storm water pollutants at concentrations exceeding groundwater preventive action limits or enforcement standards established by the state Department of Natural Resources in ch. NR 140, Wis. Adm. Code, as amended from time to time. Storm water shall not be injected underground through excavations or openings that would violate s. NR 812.05 Wis. Adm. Code, as amended from time to time.

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

**F. INFILTRATION.** Except as provided in Sections 18.15.050 G. and H., best management practices shall be designed, installed, and maintained to infiltrate runoff, to the maximum extent practicable, in accordance with the following:

1. For residential developments one of the following shall be met:
  - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
  - b. Infiltrate 25% of the post-development runoff from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
2. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:
  - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
  - b. Infiltrate 10% of the runoff from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
3. Infiltration systems designed in accordance with this Section 18.15.050 F. shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
4. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with Section 18.15.050 F. 3. Pretreatment options

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

5. Notwithstanding Section 18.15.050 F. 3, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

**G. INFILTRATION EXCLUSIONS.** The runoff from the following areas is prohibited from meeting the requirements of Section 18.15.050 F.:

1. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
2. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.
3. Fueling and vehicle maintenance areas.
4. Areas within 1,000 feet upgradient or within 100 feet downgradient of Karst features.
5. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock. This exclusion does not prohibit the infiltration of roof runoff.
6. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
7. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
8. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
9. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This exclusion does not prohibit the infiltration of roof runoff.

**H. INFILTRATION EXEMPTIONS.** The following are not required to meet the requirements of Section 18.15.050 F.:

1. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
2. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
3. Redevelopment post-construction sites.
4. In-fill development areas less than 5 acres.
5. Infiltration areas during periods when the soil on the site is frozen.
6. Roads in commercial, industrial and institutional land uses and arterial residential roads.

**I. EXCEPTIONS TO DISCHARGE QUANTITY AND QUALITY MANAGEMENT REQUIREMENTS.** The City may establish storm water management requirements either more or less stringent than those set forth in this ordinance, provided that at least one of the following conditions apply:

1. The City Engineer determines that a higher level of protection is needed to protect sensitive natural resources.
2. The City Engineer determines that a higher level of protection from flooding is required to protect public health and safety.
3. The City Engineer determines that more restrictive discharge controls are needed because existing downstream conveyance or storage facilities are or will be rendered inadequate as a result of development activity.
4. The City Engineer determines that the land development activity is covered by an approved storm water management system plan that contains management requirements consistent with the purpose and intent of this ordinance.
5. Provisions are made to manage storm water by an off-site facility, provided that all of the following conditions for the off-site facility are met:
  - a. The facility is in place.
  - b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than would be provided by on-site practices meeting the requirements of this ordinance.
  - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
  - d. The City Engineer finds that meeting the minimum on-site management requirements of this ordinance is not feasible due to space or site restrictions.

**J. PROTECTIVE AREAS.**

1. “Protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the widths set forth hereinbelow, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this Section 18.15.050 J., “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
  - a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, Wis. Adm. Code, 75 feet.
  - b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
  - c. For lakes, 50 feet.
  - d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m), Wis. Adm. Code. This subsection does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
  - e. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
  - f. Determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03, Wis. Adm. Code.
  - g. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
2. This Section 18.15.050 J. applies to post-construction sites located within a protective area, except those areas exempted under Section 18.15.050 J. 4.
3. The following requirements shall be met:

- a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
  - b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
  - c. Best management practices such as filter strips, swales, or wet detention basins, which are designed to control pollutants from non-point sources, may be located in the protective area.
4. This Section 18.15.050 J. does not apply to:
- a. Redevelopment post-construction sites.
  - b. In-fill development areas less than 5 acres.
  - c. Structures that cross or access surface waters such as boat landings, bridges and culverts.
  - d. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
  - e. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

**K. LOCATION AND REGIONAL TREATMENT OPTION.**

1. The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system within the same watershed.
2. Runoff within a non-navigable drainage way that flows into a BMP, such as a wet pond, is not required to meet water quality performance standards unless designed to provide treatment. This regional treatment option does not supersede any other federal, state or local regulation of post-construction runoff, such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.
3. The discharge of runoff from a BMP, such as a wet pond, or after a series of such BMPs, is subject to this ordinance.
4. The City Engineer may approve off-site management measures provided that all of the following conditions are met:

- a. The City Engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City and that contains management requirements consistent with the purpose and intent of this ordinance.
  - b. The off-site facility meets all of the following conditions:
    - i. The facility is in place.
    - ii. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
    - iii. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
5. Where a regional treatment option exists such that the City Engineer exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in lieu of storm water management practices.

**L. FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT PRACTICES.** Where the City waives all or part of the minimum on-site storm water management requirements under this ordinance, the applicant may be required to pay a fee in an amount determined in negotiation with the City. In determining the fee for land development projects, the City Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the on-site or regional storm water management practices needed to serve the land development.

**18.15.060 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.**

**A. PERMIT REQUIRED.** No landowner or responsible party 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, FEES, AND COSTS.** Unless specifically excluded by this ordinance, any landowner or responsible party desiring a permit shall submit to the City Engineer a permit application made on a form provided by the City for that purpose.

- 1. Unless otherwise excepted by this ordinance, 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; and a non-refundable permit administration fee.
- 2. The storm water management plan, maintenance agreement and administration fees shall meet the requirements of this ordinance.
- 3. Within twenty (20) business days of the receipt of an invoice from the City, the applicant shall reimburse the City for all of the City's costs and

expenses incurred (including, but not limited to, professional and attorneys' fees) in reviewing the permit application.

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

1. Within thirty (30) business days of the receipt of a complete permit application, including all items as required by this Section 18.15.060, the City Engineer shall inform the applicant whether the application, storm water management plan and maintenance agreement are approved or disapproved.
2. If the storm water permit application, storm water management plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the City Engineer shall issue the permit.
3. If the storm water permit application, storm water management plan or maintenance agreements are disapproved, the City Engineer shall detail in writing the reasons for disapproval.
4. The City Engineer may request additional information from the applicant. If additional information is submitted, the City Engineer shall have fifteen (15) business days from the date the additional information is received to inform the applicant whether the permit application, storm water management plan and maintenance agreement are approved or disapproved.

D. **PERMIT CONDITIONS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action to suspend or revoke this permit may be appealed in accordance with this ordinance.

1. Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state and local laws and regulations.
2. The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
3. The responsible party shall notify the City at least three (3) business days before commencing any work in conjunction with the storm water management plan, and within the next working day upon completion of the storm water management practices. If required as a special condition, the responsible party shall make additional notification according to a schedule set forth by the City so that practice installations can be inspected during construction.

4. Facilities installation required as part of this ordinance shall be certified "as-built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection to determine if they are in accordance with the approved storm water management plan and this ordinance. The City shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
5. The responsible party shall notify the City of any significant modifications it intends to make to an approved storm water management plan. The City may require that the proposed modifications be submitted for approval prior to incorporation into the storm water management plan and execution by the responsible party.
6. The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices are transferred to subsequent private owners as specified in the approved maintenance agreement.
7. The responsible party authorizes the City to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special charge against the property as authorized under s. 66.0627, Wis. Stats., as amended from time to time, or to charging such costs against the financial guarantee posted under this ordinance.
8. If so directed by the City, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by storm water runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
9. The responsible party shall permit property access to City personnel or to authorized personnel for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
10. Where a storm water management plan involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the City may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
11. The responsible party is subject to the enforcement actions set forth in this ordinance if the responsible party fails to comply with the terms of this permit.

**E. PERMIT DURATION.** Permits issued under this Section 18.15.060 shall be valid from the date of issuance through the date the City notifies the responsible party that all storm water management practices have passed the final inspection required under this ordinance.

**18.15.070 STORM WATER MANAGEMENT PLAN CONTENTS.**

**A. PLAN REQUIREMENTS.**

1. In general, the storm water management plan required under this ordinance shall contain any information the City may need to evaluate:
  - a. The environmental characteristics of the area affected by land development activity.
  - b. The potential impacts of the proposed development upon the quality and quantity of storm water discharges.
  - c. The potential impacts upon water resources and drainage utilities.
  - d. The effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance.

The plan shall consist of narrative descriptions and explanations; maps, charts, and graphs; tables; photographs; supporting calculations; and references to recognized engineering text and manuals as may be necessary to provide a clear and concise description of the plan. The sources of maps and data presented in the plan shall be identified.

For phased developments, the site development storm water management plan shall consider the cumulative effect of all phases.

The plan shall include computations of peak flow rates and discharge volumes at each point of discharge into and out of the site concerned under existing and planned development and redevelopment conditions. The data shall include times of concentration to key junctions in flow paths and to points of discharge into and out of the site.

2. Unless specified otherwise by this ordinance, a storm water management plan shall contain at a minimum the following information:
  - a. Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
  - b. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded subdivision plat.
  - c. Discussion of additional important storm water management considerations, project elements and supporting documentation as provided in Section 18.15.050 C.

- d. Storm water management checklist established in the City of Port Washington Storm Water Management Plan.
- e. Description of pre-development site conditions and supporting documentation as provided in Section 18.15.070 B.
- f. Description of post-development site conditions and supporting documentation as provided in Section 18.15.070 C.
- g. Description of anticipated impacts and supporting documentation as provided in Section 18.15.070 D.
- h. Description of proposed storm water management facilities and measures and supporting documentation as provided in Section 18.15.070 E.
- i. Copies of permit applications and other pertinent correspondence with the state Department of Natural Resources regarding the natural resources at and within 100 feet of the site.

**B. PRE-DEVELOPMENT SITE CONDITIONS.** The plan shall include a map and description of the existing conditions of the site concerned including:

- 1. A map of the site at a scale of 1 inch equals 100 feet or larger showing the property boundaries referenced to the U. S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat; and the topography of the site including contours shown at an interval of 2 feet or less, together with such spot elevations as may be necessary; the contours and spot elevations shall be referenced to the National Geodetic Vertical Datum of 1929, or to City Datum with prior written approval from the City.
- 2. The hydrologic and hydraulic characteristics of the site including drainage flow paths and directions of flow onto, through, and out of the site; related drainage basin boundaries, including off-site tributary areas; and times of concentration.
- 3. The location of areas where storm water may collect or percolate into the ground.
- 4. Locations where runoff enters the site from adjacent tributary areas together with the size of those areas expressed in acres.
- 5. Locations where runoff leaves the site and the contributing watersheds to each of these locations expressed in acres.
- 6. Ground water elevations referred to the National Geodetic Vertical Datum of 1929, or to City Datum with prior written approval from the City.
- 7. Soils by hydrologic group (field verification required).
- 8. Cover type and condition.

9. Location and extent of impervious surfaces, including type and condition of the surfaces.
10. Locations and outlines of all buildings or other structures.
11. Location of all receiving bodies of surface water on or within 100 feet of the site into which storm water flows.
12. Documentation of field navigability determination by state Department of Natural Resources staff.
13. Locations and size of wetlands on or within 100 feet of the site.
14. Documentation of state Department of Natural Resources concurrence with wetland boundaries.
15. Location and extent of the 100-year recurrence interval flood hazard area associated with any perennial stream or watercourse on or within 100 feet of the site.
16. Location and extent of environmental corridors on or within 100 feet of the site.
17. Information regarding current water quality objectives and current water quality conditions in any perennial watercourses located on or within 100 feet to the site.
18. Locations, sizes, and elevations of all existing storm sewers, channels, ditches, detention or retention ponds, or other engineered drainage facilities on or within 100 feet of the site; the elevations being referred to the National Geodetic Datum of 1929, or to City Datum with prior written approval from the City.

C. **PROPOSED POST-DEVELOPMENT SITE CONDITIONS.** The plan shall describe the alterations proposed at the site and the resulting proposed post-development conditions. The description shall include:

1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters.
2. Proposed changes in the planimetry of the site, and in the topography of the site by contours having the same contour interval and referred to the same datum as used to present the topography of the existing site conditions.
3. The location and outline of all proposed buildings or other structures.
4. Changes in the location, extent and type of impervious surfaces.
5. The location and extent of areas where vegetation is to be disturbed or planted.

6. Impacts on existing natural storage or infiltration areas.
7. Changes in the drainage flow paths into, through, and out of the site, and related changes in drainage basin boundaries.
8. The location, elevations, and sizes of all proposed minor and major storm water management facilities; the former including all storm sewers and inlets, and the latter including curbed roadways, roadway ditches, culverts, storage facilities, and interconnected flow paths; all elevations being referred to the National Geodetic Vertical Datum of 1929, or to City Datum with prior written approval from the City.
9. Any changes to lakes, streams, watercourses, or wetlands on or within 100 feet of the site concerned.
10. The location and widths of required public rights-of-way or easements needed to accommodate the recommended storm water management facilities.

**D. ANTICIPATED IMPACTS.** The plan shall contain a description of the following anticipated impacts of storm water runoff from the proposed development, redevelopment or land development as managed by the facilities and measures recommended in the plan:

1. Computed 100-year, 24-hour, SCS TYPE II peak runoff rate at each location where runoff enters and leaves the site, expressed in cubic feet per second.
2. Computed 2-year, 24-hour, SCS TYPE II peak runoff rate at each location where runoff enters and leaves the site, expressed in cubic feet per second.
3. Computed runoff volume for the 1.5-inch, 4-hour rainfall.
4. All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point into and out of the site, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s), including off-site tributary watershed areas.
5. Changes in the locations and conveyance capacities of storm water discharge points from and to the site concerned.
6. Adequacy of receiving storm sewer, engineered storm water management facility or watercourse to convey or store the anticipated peak rate of storm water discharge from the site concerned, giving due consideration to existing and off-site flows.
7. Changes in the location and extent of the 100-year recurrence interval flood hazard area of any perennial watercourse location within, through, or within 100 feet of, the site concerned.

8. Results of investigations of soils and groundwater required for the placement and design of storm water management measures.
9. Changes in ground water elevations referred to National Geodetic Vertical Datum of 1929, or to City Datum with prior written approval from the City.

**E. PROPOSED STORM WATER MANAGEMENT FACILITIES AND MEASURES.** The plan shall include a definitive description of the proposed storm water management facilities and measures for the control of the quantity and quality of the anticipated storm water runoff from the proposed development, redevelopment or land division. All site investigations, plans, designs, computations and drawings shall be certified as prepared in accordance with accepted current engineering practice and in accordance with the latest editions of “Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines for Storm Water Best Management Practices,” “Wisconsin Construction Site Best Management Practices Handbook,” and “Standard Specifications for Sewer and Water Construction in Wisconsin,” as published and amended from time to time.

The description of the proposed management facilities shall include:

1. For detention and retention facilities: locations, areas, depths, volumes, inlet and outlet configurations and elevation of the bottoms, and of key inlet and outlet control structures; all elevations being referred to National Geodetic Vertical Datum of 1929, or to City Datum with prior written approval from the City.
2. For conveyance facilities: locations of inlets and manholes and associated rim and invert elevations, and pipe sizes, slope and materials; locations, elevations, and cross sections of ditches, swales and channels; and culvert sizes, inlet and outlet configurations and elevations; all elevations being referred to National Geodetic Vertical Datum of 1929, or to City Datum with prior written approval from the City.
3. Design computations and all applicable assumptions for the storm water conveyance (open channel, closed pipe, etc.) system.
4. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
5. Design computations and all applicable assumptions for storm water quality practices (sedimentation type, filtration type, infiltration type) as needed to show that practices are appropriately sized to accommodate runoff from the 1.5-inch rainfall.
6. For practice designs that depart from those specified in the latest edition of “Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines for Storm Water Best Management Practices,” as published and amended from time to time, the results of continuous simulation modeling, conducted according to the guidelines established in that manual, shall be presented in such a way as to show the reduction in average annual total suspended solids loading from the developed site.

7. An Erosion Control Plan in accordance with the City of Port Washington Erosion Control Ordinance.
8. Measures to abate any potential pollution of surface and ground waters.
9. A schedule for the construction of the recommended storm water management facilities and estimates of attendant capital, operation and maintenance costs.
10. A Maintenance Plan and Maintenance Agreement developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
11. For detention and retention facilities, wetland and prairie restoration elements, a Landscaping Plan in accordance with the "City of Port Washington Pond Landscaping Guidelines," as amended from time to time.
12. Other information as required by the City to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

**F. ALTERNATE REQUIREMENTS.** The City may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under this ordinance.

**18.15.080 MAINTENANCE AGREEMENT.**

**A. MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required for storm water management practices under this ordinance shall be an agreement between the City and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The agreement or shall be recorded with the Ozaukee County Register of Deeds as a deed restriction or restrictive covenant 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 information and provisions:

1. Identification of the storm water facilities and designation of the drainage area served by the facilities.
2. A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan.
3. Identification of the responsible party, organization or municipality responsible for long-term maintenance of the storm water management practices.
4. Requirement that the responsible party, organization or municipality shall maintain storm water management practices in accordance with the schedule included in the agreement.

5. Authorization for the City to access the property to conduct inspections of storm water practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement. The City shall have the right to enter the amount due for such inspections on the tax rolls and collect the money as a special charge against the property pursuant to s. 66.0627, Wis. Stats., as amended from time to time.
6. A requirement that the City: maintain public records of the results of the site inspections; inform the responsible party responsible for maintenance of the inspection results; and specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
7. Agreement that if the City Engineer notifies the party designated under Section 18.15.080 B. 3. of maintenance problems that require correction, the specific corrective actions shall be taken within a reasonable time frame as determined by the City.
8. Authorization for the City to perform, or engage outside contractors to perform, the corrective actions identified in the inspection report if the responsible party does not make the required corrections in the specified time period. The City shall enter the amount due for such corrective actions on the tax rolls and collect the money as a special charge against the property pursuant to s. 66.0627, Wis. Stats., as amended from time to time.

**18.15.090 FINANCIAL GUARANTEE.**

- A. **ESTABLISHMENT OF THE GUARANTEE.** 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 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. The financial guarantee shall give the City the authorization to use the funds to complete the project or storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the City that the requirements of the ordinance have not been met.
- B. **CONDITIONS FOR RELEASE.** Conditions for the release of the financial guarantee are as follows:
  1. The City shall release the portion of the financial guarantee established to assure installation of storm water practices, minus any costs incurred by the City to complete installation and/or inspection of such practices, upon submission of "as built plans" by a licensed professional engineer. The City may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

2. The City shall release the portion of the financial guarantee established to assure maintenance of storm water practices, minus any costs incurred by the City, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

**18.15.100 FEE SCHEDULE.**

- A. **BASIS.** The fees referred to in this ordinance shall be determined by the Common Council, and may be modified from time to time by resolution. Such fees shall be related to the costs involved in handling permit applications, reviewing plans, conducting site inspections, and administering the storm water management program. A schedule of such fees shall be available for review in the office of the City Clerk.

**18.15.110 ILLICIT DISCHARGES AND UNAUTHORIZED CONNECTIONS.**

- A. **DISCHARGES PROHIBITED.** No person may discharge, spill or dump substances or materials which are not entirely composed of storm water into receiving bodies of water, storm sewers or drainage facilities, or onto driveways, sidewalks, parking lots or other areas that discharge into the City drainage system.
- B. **CONNECTIONS PROHIBITED.** It shall be a violation of this ordinance to connect a sanitary sewer pipe or drain, connect a pipe or drain that contributes pollutants associated with industrial activity, or connect any other hydraulic conveyance facility that introduces non-storm water discharges to or into the City storm water drainage system and facilities. All such non-storm water discharges to or into the City storm water system and facilities shall be defined as “illicit discharges.”

Illicit discharges shall cease, desist and be abated by the person or entity responsible immediately upon notice from the City Engineer. If the person or entity responsible fails to cease, desist and abate the illicit discharge, the City may take such action itself and seek reimbursement in municipal or circuit court, or as a special charge against the property as authorized under s. 66.0627, Wis. Stats., as amended from time to time.

- C. **EXEMPTIONS.** The following activities are exempt from the provisions of this Section 18.15.110, unless found to have an adverse impact on the storm water:
  1. Discharges authorized by a permit issued by the state Department of Natural Resources.
  2. Discharges resulting from fire fighting activities.
  3. Discharges in compliance with construction site erosion controls or storm water management regulations contained in this ordinance.
  4. Facility maintenance activities undertaken by any federal, state, county or municipal agency, such activities, however, being subject to construction erosion control measures.

5. Discharges from uncontaminated pumped ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering or irrigation, individual residential car washing, and swimming pools, if the water has been dechlorinated.

**D. PENALTY.** Violations of this Section 18.15.110 shall be subject to enforcement action and penalties as set forth in this ordinance.

**18.15.120 INSPECTION, ENFORCEMENT AND PENALTIES.**

**A. INSPECTION.** City personnel or authorized personnel shall carry out inspections, investigations and monitoring to assess and confirm compliance with this ordinance.

1. City Personnel shall inspect, conduct surveillance and/or monitor the municipal drainage system and discharge outfalls on at least an annual basis to assess system performance and water quality. Findings of non-compliance with this ordinance during such inspection, surveillance and/or monitoring of the City drainage system shall result in further investigation to identify the source of the pollution discharge to or into the drainage system.
2. City Personnel or authorized personnel shall inspect and monitor land development activity for compliance with permit conditions as provided in this ordinance.

**B. PUBLIC NUISANCE.** The following shall be deemed to constitute public nuisances, and may be prosecuted as such by the City or by aggrieved property owners:

1. Any development, redevelopment or property land division that is commenced without an approved storm water management plan as required by this ordinance.
2. Any land development activity initiated after the effective date of this ordinance by any person, firm, association or entity subject to the provisions of this ordinance shall be deemed a violation unless conducted in accordance with said provisions.
3. Any drainage facility not maintained in accordance with this ordinance.
4. Any illicit discharge, as defined in this ordinance, to the City storm water drainage system and facilities.
5. Any activity that adversely impacts on surface or ground water quality or endangers the health and safety of the public.

**C. COMPLIANCE ORDER.** The City Engineer shall notify the responsible party by certified mail of any non-complying activity or property. The notice shall describe the nature of the violation, order any remedial action to be taken, include a schedule for remedial action, and indicate additional enforcement action that may be taken.

1. Upon receipt of written notification from the City Engineer, the responsible party of the non-complying activity or property shall make corrections as necessary to meet the requirements set forth in this ordinance and the order.
2. If the responsible party or person or entity in violation of this ordinance continues the non-compliant activities or practices, City personnel or authorized personnel may enter upon the land and perform the work or other operations necessary to bring said activity or property into conformance with requirements of this ordinance. The City shall keep a detailed accounting of the costs and expenses of performing this work. If applicable, these costs and expenses shall be deducted from any financial guarantee posted pursuant to this ordinance. Where such financial guarantee has not been established, or where such guarantee is insufficient to cover the costs, the City shall enter said costs and expenses on the tax roll as a special charge against the property, to be collected with any other taxes levied thereon for the year in which the work is completed.
3. The City Engineer is authorized to post a stop order on all activity in violation of this ordinance, or to request the City Attorney to obtain a cease and desist order in any court with jurisdiction.
4. If the violations of this ordinance are likely to result in damage to private properties, public facilities, or waters of the state, City personnel or authorized personnel may enter upon the property and take emergency actions necessary to prevent such damage. The costs incurred by the City, plus interest and attorneys' fees, shall be billed to the landowner of the property and/or the responsible party.
5. The City Engineer may suspend or revoke a permit issued under this ordinance for non-compliance with this ordinance, or for non-compliance with the notice and order issued under Section 18.15.120 C.
6. Any person who, or any firm, association or entity which, does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$50.00 or more than \$1,000.00 per offense, together with the costs of prosecution. Each day that a violation exists shall constitute a separate offense.
7. Compliance with the provisions of this ordinance may also be enforced by injunction, citation, and abatement of nuisance or other appropriate and available remedy. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunction proceedings.

**18.15.130**      **APPEALS.**

- A.      **BOARD OF APPEALS.** The Board of Appeals created pursuant to Section 20.08.020 of the Zoning Ordinance of the City of Port Washington as authorized by ss. 62.23(7)(e), Wis. Stats., as amended from time to time:

1. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City in administering this ordinance.
  2. Upon appeal, may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship.
  3. Shall use the rules, procedures, duties and powers authorized by statute and Wisconsin case law in hearing and deciding appeals and authorizing variances.
  4. Shall be authorized to hear and decide special exceptions to the terms of this ordinance, pursuant to Section 20.08.020 of the City's Zoning Ordinance.
- B. WHO MAY APPEAL.** Appeals to the Board of Appeals may be taken by any aggrieved person or by an officer, department, board or bureau of the City affected by any decision of the City Engineer in the administration of this ordinance.

## **18.16.000 APPLICATION FEES AND DEVELOPMENT REVIEW FEES.**

### **18.16.010 Application Review and Development Fees**

2001 APPLICATION FEES AND DEVELOPMENT REVIEW FEES SCHEDULE

Consultation	No Charge for initial consultation on a project.
Annexation Petition	\$300 plus the actual cost of the public hearing notice. (Includes meeting with applicant, assistance in preparing the petition, preparation of public hearing notice, coordinating mapping of territory, staff review time in preparation for Plan Commission and Common Council meetings.)
Rezoning Petition	\$250 plus the actual cost of the public hearing notices and cost of mailing notices. (Includes meetings with applicant, staff research and review of request and preparation time for Plan Commission and Common Council meetings, preparation of public hearing notice, preparing notice to neighbors and address list, and map changes.)
Conditional Use Grant Review	\$300 plus the actual cost of the public hearing notice and the cost of mailing notices. (Includes meeting with applicant, staff review time in preparation for Plan Commission and Common Council meetings, draft documents and prepare for recording, preparation of public hearing notice, review at one (1) year, and mapping.)
Certified Survey Map Review (CSM) Without Dedication	\$250 (Includes staff review time in preparation for Plan Commission meeting.)
Certified Survey Map Review (CSM) With Dedication	\$275 (Includes staff review time in preparation for Plan Commission and Common Council Meetings.)
Concept Plan Review	\$75
Minor Requests	\$100 (For small site plan changes such as minor landscaping, new driveways, additions to parking etc.)
Business Site and Operational Plan Review	\$450 (Includes meetings with applicant, detailed engineering and planning review, Design Review Board meeting prep. and reports to Plan Commission.)
Subdivision Concept Review	\$300 (Includes meetings with the developer and engineering and planning review.)
Preliminary Plat Review	\$550 (Includes detailed planning and engineering review, and preparation of report to Plan Commission.)
Final Plat Review	\$250 (Includes detailed engineering and planning review, preparation of Developer's Agreement, prepare reports for Plan Commission and Common Council meetings.) (Also requires digital copy of plat on CD.)
Overlay Planned Development (OPD) Review	\$300 plus the actual cost of the public hearing notice and mailing costs. (Includes staff review time and preparation for Plan Commission and Common Council meetings and preparation of OPD agreement and documents for recording.)

