



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-8145
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www.ci.mequon.wi.us

Public Works Department

PUBLIC WORKS COMMITTEE

Wednesday, August 14, 2024

5:30 PM

South Conference Room

Amended Agenda

1) Call to Order, Roll Call

2) Approval of Minutes

a. July 9th, 2024

3) Resolutions

Action requested: review and recommend approval

a. **RESOLUTION 4136** A Resolution Authorizing a Contract Amendment for the Development of Streetscape Construction Plans on Port Washington Road between Zedler Lane and Mequon Road with Harwood Engineering Consultants, Ltd., Milwaukee, Wisconsin, in an Amount Not-to-Exceed \$88,200

4) Discussion and Possible Action

Discussion and Possible Action

a. **ORDINANCE 2024-1667** An Ordinance Amending Chapter 58 of the Mequon Municipal Code Relating to WDNR MS4 Stormwater Permit Conditions

b. Invoice Waiver Request - Bill 8201

c. Public Works Work Plan (8.14.24)

5) Adjourn

Dated: August 14, 2024

/s/ Jeffrey Hansher, Chair

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the Public Works Department at 262-236-2913, Monday through Friday, 7:00 AM – 3:30 PM.



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Public Works Department

PUBLIC WORKS COMMITTEE

Tuesday, July 9, 2024

6:30 PM

South Conference Room

Minutes

1) Call to Order, Roll Call

Meeting called to order at 6:00 PM.

Present:

Chair Jeffrey Hansher
 Alderman Kelly Tolocko
 Alderman Peter Bratt

Also present: Deputy Director of Public Works Weyker, Administrative Assistant Schlereth and City Attorney Sajdak (6:34-6:41 PM)

2) Approval of Minutes

a. June 11, 2024, Minutes

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Tolocko
SECONDED BY: Alderman Bratt

AYES: Hansher, Tolocko, Bratt

3) Action Item

Discussion and Possible Action

Attachment: 7-9-24 (9575 : July 9th, 2024 Minutes)

a. Invoice Waiver Request - Bill 8201

b.

RESULT: **Denied [0 to 3]**
MOVED BY: Alderman Bratt
SECONDED BY: Alderman Tolocko

NAYS: Hansher, Tolocko, Bratt

4) Discussion Items

1. Community Survey Topics - Public Works Committee
2. Public Works Work Plan (7.9.24)

5) Adjourn

a. Motion to Adjourn at 6:41 PM

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Tolocko
SECONDED BY: Alderman Bratt

AYES: Hansher, Tolocko, Bratt

Respectfully Submitted,

Ren Schlereth
Administrative Assistant

Attachment: 7-9-24 (9575 : July 9th, 2024 Minutes)



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Office of Community Development

TO: Public Works Committee
FROM: Kim Tollefson, Director of Community Development
DATE: August 14, 2024
SUBJECT: RESOLUTION 4136 A Resolution Authorizing a Contract Amendment for the Development of Streetscape Construction Plans on Port Washington Road between Zedler Lane and Mequon Road with Harwood Engineering Consultants, Ltd., Milwaukee, Wisconsin, in an Amount Not-to-Exceed \$88,200

Background

The streetscape plan for North Port Washington Road as part of public improvements within TID No. 4 and TID No. 5 from Zedler Lane to Mequon Road was approved by the Council May 14, 2024. Since that time, staff has worked with Harwood Engineering Consultants to develop a scope of services for the public improvement construction plans and bid documents that are to be issued this fall for spring 2025 construction. As the landscape architect of the approved streetscape plan, Harwood's original contract is being recommended for amendment to develop the plans and documents. Common Council approval of the contact amendment is required because the annual expenditure paid to Harwood will exceed \$25,000.

Analysis

The scope of services is outlined in the Contract Amendment package from Harwood dated July 25, 2024, that is attached, and includes the following:

- Streetscape and Landscape
- Extension of design for Mequon Road, east of the Port Washington Road intersection to I-43
- Submission of plans and necessary permits to Ozaukee County and WisDOT
- Construction Plan Set
- BID documents
- Final corridor sign package for BID
- Survey
- Electrical design work

Additional scope will include the following; however, the consultant needs additional engineering information to develop the scope and estimated cost. This portion will return for a modification to the contract prior to bidding on the project.

- Donges Bay Road intersection right turn lane (northbound onto N. Port Washington Road from westbound Donges Bay Road) and sidewalk addition

The project scope and proposed cost aligns with similar and previous City-contracted work. Staff finds significant value in utilizing Harwood as the architect of the approved plan. The firm is a full-service company with a positive relationship with the City from prior projects. The firm's proposal aligns with the cost of similar projects recently executed with contract services on a per-mile basis. In this case, the scope is quite extension given the diversity of work: road, intersection, and median reconfiguration, traffic signal and street/pedestrian lighting which includes electrical design, landscaping and the intergovernmental coordination needed with Ozaukee County and WisDOT. The similar projects include:

- 2024 Road Capital Improvement Project: County Line Road (OIT to Cedarburg Road) design services for deteriorated road conditions (\$33,600). This project is a joint project with the Village of Brown Deer.
- 2023 TID 3 Public Improvement: Mequon Road (Buntrock Avenue to Cedarburg Road) design services for Pedestrian, Traffic and Streetscape (\$166,430 plus \$61,540 amendment).
- 2024 Road Capital Improvement Project: Highland Road and Fiesta Lane design services for road work and drainage improvements (\$58,000).

Fiscal Impact

The base cost of this scope of service is \$78,750 and is an eligible TID expenditure. Staff recommends a 12% contingency (\$9,450) related to potential additional analysis for a total expenditure not exceeding \$88,200. The cost will be split between TID No. 4 and No. 5. The consultant estimates the cost to complete all the improvements per the approved streetscape plan is approximately \$1,020,655. Currently, the TIDs combined have approximately \$1,620,000 in cash reserves as of the 2022 Annual Report, showing sufficient funding for project implementation.

Recommendation

The Public Works Committee recommendation is forthcoming on August 14, 2024.

Attachments:

Port Washington Road Streetscape CD Proposal (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 4136

A Resolution Authorizing a Contract Amendment for the Development of Streetscape Construction Plans on Port Washington Road between Zedler Lane and Mequon Road with Harwood Engineering Consultants, Ltd., Milwaukee, Wisconsin, in an Amount Not-to-Exceed \$88,200

RECITALS

A. The City of Mequon Common Council approved a streetscape plan for Port Washington Road between Zedler Lane and Mequon Road on May 14, 2024.

B. The City of Mequon Community Development Department's Planning Division received a proposal to develop the construction documents related to the proposed streetscaping project on Port Washington Road in Tax Increment District (TID) Nos. 4 and 5.

C. Staff reviewed the proposal and the qualifications for the contract and has made recommendation to the Public Works Committee.

D. Adequate funds for this contract are available and will be split 50/50 between TID No. 4 and TID No. 5.

E. To provide additional services that may result from additional authorized efforts, the contract award amount shall be affirmed with a 12% contingency, for a total not-to-exceed cost of \$88,200.

F. If authorized, staff will enter a contract with the recommended consultant.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that the above proposal, as recommended by the Public Works Committee, be accepted and that the proper City officials are authorized and directed to sign the appropriate contract documents after review and approval of the same by the City Attorney.

Approved by: Andrew Nerbun, Mayor

Date Approved: August 14, 2024

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 14, 2024.

Caroline Fochs, City Clerk

July 25, 2024

Kim Tollefson, Director of Planning & Development
Jac Zader, Assistant Director of Community Development
City of Mequon
11333 N. Cedarburg Road
Mequon, WI 53092

**RE: CITY OF MEQUON, TID #4 AND #5 PUBLIC IMPROVEMENTS
CONSTRUCTION PLANS FOR PORT WASHINGTON ROAD STREETSCAPING**

Hello Kim & Jac:

Harwood Engineering Consultants, Ltd. (Harwood) is pleased to submit our proposal for Professional Landscape Architecture and Engineering Consulting Services for the above-referenced project. We are very interested in working with you on this project and have provided our terms and fixed fees for your consideration.

Original Project Understanding

The Port Washington corridor is currently vehicular orientated consisting of turf medians and terraces. Very tall, commercial grade light poles are located in the center medians for the majority of the corridor along with power lines along the west side. This is a very exciting opportunity to offer design services that will not only create a unified streetscape but also create a sense of place for the businesses, residents and visitors.

Prior to any concepts being drafted, the Landscape Architects and Civil Engineers at Harwood will meet with city staff, business owners and residents to discuss the existing conditions, what works, and what doesn't work along the corridor. We will also take any recommendations for current and future needs. This data gathering is very important to create concepts that first and foremost meet the goals and objectives of the City.

Based on all of the data we gather through the observations, interviews and surveys, we will put together (3) conceptual designs that will be presented to city staff. The design options will not only have different ideas/themes, they will also provide different levels of intensity or cost. After the meeting we will provide a summary to the City in order to gain consensus on the direction moving forward for the final plan.

The final plan will be developed with direct input from the city staff and coordination with Ozaukee County and presented to the Common Council for final approval.

If requested, final landscape architecture and engineering will occur after the conceptual design included in this proposal has been completed. A separate fee and proposal will be prepared at that time. It is also understood that the project will require a detailed site survey in order to move into Construction Documents.



July 25, 2024

Port Washington Road Streetscape - CDs

City of Mequon

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Contract Amendment Project Understanding

Our fees are based on the Conceptual Plans created by Harwood on 05-07-24, including the following scope of work.

- Design of right turn lane at Donges Bay Road northbound onto PW Rd and sidewalk that extends to bridge over I-43. Assume there may be some storm sewer / drainage design. Does not include any other utility design.
- Remainder of the work outside of the Donges Bay turn lane and sidewalk is streetscape / landscape work that will not require any utility design, roadway modifications, or significant grading changes.
- Updated plan for Mequon Road east of Mequon Road / PW Road intersection to I43, plan to include streetscape design for the newly constructed medians to match design intent of the Port Washington Road design concepts. Roadway engineering is not included.
- Submission of final streetscape plan and ROW permit to Ozaukee County
- Construction plans
- Bid Documents
- Corridor Sign for Bid Plans (Design to be completed by City staff)
- The preliminary construction budget is \$1,020,655 Should the budget increase, our design fees will increase proportionally.
- Contract documents shall be issued in a single bid package.
- This project shall be constructed in a single phase.
- Drawings shall be in AutoCad format.

Schedule

We acknowledge the project schedule and can meet the deadlines as specified, provided that we receive information/documents from the architect/owner in a timely manner. Harwood shall provide information requests in a timely manner.

Milestone	Timeframe	
	Alt 1	Alt 2
Ad to Newspaper	Sept 10	Oct 15
Bid Opening	Sept 26	Oct 31
CC Bid Award	Oct 8	Nov 12



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Base Engineering Fees

Our Base Engineering Fees for this project (excluding LEED and Commissioning Services) are as follows:

Discipline	Fee
Port Washington Road Streetscape CD's	\$52,750
Donges Bay Turn Lane & Sidewalk	TBD
Mequon Road Streetscape CD's (does not include lighting)	\$3,000
Port Washington Road Survey	\$18,000
Donges Bay Road Survey	\$5,000
Totals	\$78,750

Assumptions/Conditions

CIVIL

- It is assumed that stormwater management design will not be required for base services. If stormwater management is required as part of the design scope a separate fee can be provided for that service.

Civil Design Services Included (base fee services)

- Conceptual site layout and design
- Preliminary meetings with municipality
- Demolition plan
- Grading and storm sewer plan
- Site/Utility/Paving Plan
- Erosion Control Plan
- Construction Details
- Construction Specifications
- Punch list and follow-up

SURVEY – Port Washington Road

- Scope includes survey of Port Washington Road Right of Way from West Zedler Lane to Mequon Road.
- Includes locating at grade features. Does not include full topography or utility inverts.



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Port Washington Road Streetscape - CDs

City of Mequon

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SURVEY – Donges Bay Road

- Scope includes full topo survey of Donges Bay Road from Port Road to 100' east of Port Road. Also includes from the back of curb to the ROW on the north side of the road for sidewalk design to the bridge over I-43.

LANDSCAPE ARCHITECTURE

- Scope of landscape architecture includes full-service design, including conceptual design, municipal submittals, construction documents, bid assistance, and typical construction administration.
- Design or specification of signage, furniture, etc., by others.
- The current landscape located outside project limits shall remain. Additional scope and fees can be added to inventory/analyze the existing landscape and prepare an expanded landscape plan.

Landscape Architectural Design Services Included (base fee services)

- Review all municipal requirements and guidelines for landscape plan approval
- Existing landscape inventory and assessment
- Preliminary meetings with municipality and/or design team
- Landscape Plan
- Coordination and review through the municipal approval process, excluding attendance at approval meetings
- Landscape Construction Details and Specifications
- Punch list and follow-up

ELECTRICAL

- Electrical design work is limited to power, controls and lighting associated with the proposed street lighting of the project area. Our proposed fee does not include power, telecommunications or controls needed for anything outside of what is needed for lighting.
- Existing circuits will be re-used where appropriate. Additional WE Energies service and controls may need to be added depending on location of new poles, obstacles, etc.
- Light level calculations will be provided to show planned conformance with codes that require specific levels of illuminance and max-to-min ratios. We assume that the City will provide clear direction on which entities' codes will apply for this project.
- Fixtures shall use LED technology and will operate at 300 volts or less.
- We assume that a trench profile showing depths along the length of the road will not be



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needed. Electrical drawings will display all circuiting from the typical overhead view, showing approximate routing between poles and metering/control equipment. Notes and specifications will be used to instruct the contractor on depths, distance from curbs and other general location direction

Supplemental Services

Harwood Engineering Consultants, Ltd. has the capability to offer a full range of additional engineering services. Should supplemental services be requested due to changes in the Scope of Services, we shall proceed with said services upon your approval and invoice on a negotiated fee or hourly basis. The following is a list of supplemental services that are beyond the scope of the basic fee proposal:

GENERAL (APPLICABLE TO ALL DISCIPLINES)

- Bid Alternates, studies, or changes to the Scope of Work which are not identified in the RFP.
- Detailed construction cost estimates.
- Preparation of formal GMP pricing documents. If required, 50% of the total fee will be invoiced and payable upon completion of this phase.
- Revision to a fast-track, multiple bid package project delivery system if not identified in the original scope of work/RFP.
- Redesign after substantial completion of the Construction Documents, including, Owner, Contractor or CM changes.
- Value engineering or other alternates proposed by the Contractor or Construction Manager.
- Utility/Governmental Rebates or Incentives.
- Attendance at pre-bid, pre-construction or construction progress meetings.
- Additional project meetings or site visits.
- Preparation of record drawings based on contractor-provided mark-ups.
- LEED analysis, design and/or documentation, full or partial.
- Commissioning.
- Variance request efforts including documentation, filing fees, and presentations.
- Engineering services required to identify and correct problems caused by Contractor's improper and incomplete installation or error.
- In depth review of Contractor cost submittals for change orders.



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Port Washington Road Streetscape - CDs

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- Redesign after completion and submittal of GMP pricing documents, resulting from Owner, Contractor or CM changes.
- Additional, unexpected, non-typical work required by the Municipality, or their reviewing agent, during the review process.
- Updating drawings for construction submittals such as Construction Bulletins (CB's) or Project Revision (PR's), caused by Owner's changes.

CIVIL

- Stormwater Management design services (**ADD \$3,000-\$5,000, as required by Site & Municipality**).
- Intersection design or signalization.
- Existing utility infrastructure capacity studies.
- Municipal utility extensions.
- Work required that is offsite or on adjacent properties.
- Environmental permitting issues (e.g. wetlands, floodplain, contaminated sites, Historic Fill Development Exemptions, Environmental Corridor Permitting, Chapter 30, etc.).
- County or State roadway access/design/permitting.
- Lift Station, Well, Booster Pump Station, or Septic Design.
- Design of bridges and abutments shall be by other civil engineers specializing in such work.

LANDSCAPE ARCHITECTURE

- Site amenities and/or outdoor furniture specifications
- Conceptual irrigation design and/or performance specification
- Landscape Renderings

ELECTRICAL

- Focus on energy communications/studies/Incentives.
- Power to signs and other non-lighting equipment.



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Port Washington Road Streetscape - CDs

City of Mequon

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Standard Hourly Rates

When extra services are approved by the client to be invoiced on an hourly basis, the following 2024 rate schedule shall apply.

Principal/Vice President/Director	\$190 - \$320
Senior Project Manager	\$225
Senior Engineer	\$185
Senior Designer	\$185
Project Manager	\$170
Designer	\$160
Project Engineer II	\$150
Senior Lighting Designer	\$145
Project Engineer I	\$135
Landscape Designer	\$105
Senior Design Documentation Specialist	\$125
Design Documentation Specialist	\$115
Project Coordinator	\$115
Design Technician	\$90
Administrative Support	\$105

Reimbursable Expenses

Reimbursable Expenses are in addition to Compensation for Basic and Additional Services and include actual expenditures made by Harwood, its employees, and/or Professional Consultants in the interest of the Project and subject to prior written consent of the Owner. Reimbursable Expenses shall be paid by consultant who is to be reimbursed by Owner at cost x 1.0 and shall include the following:

- Expense of reproducing and shipping of Drawings and Specifications for bidding, addenda, construction bulletins or project revisions.
- Each discipline that works on this project will need a paper copy of the complete plans and specifications. If not provided by the Architect, the cost to reproduce these documents by Harwood will be a Reimbursable Expense.
- Fees paid for securing approval of Authorities having jurisdiction over the project.
- Travel expenses including airfare, rental vehicles, meals, lodging, mileage, etc.



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Port Washington Road Streetscape - CDs

City of Mequon

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Terms and Conditions

This proposal is based on the terms and conditions of the Standard Form of Agreement Between Owner and Architect, AIA B101 Latest Edition, except as modified by this proposal. In providing services under this Agreement, the Consultants (Harwood) shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time in the same or similar locality. The Consultant (Harwood) makes no warranty, express or implied, as to its professional services rendered under this Agreement.

If this proposal meets with your approval, Harwood requests a signed proposal and/or a contract to proceed on this project. Authorization to begin may be indicated by signing this proposal in the space provided below or attach and reference this letter to the AIA Standard Form Contract. Unless a written confirmation is received, verbal authorization to proceed shall be deemed to be acceptance of this proposal. This proposal remains in effect for a period of not more than (6) six months from the date of this letter.

Harwood reserves the right to delay or stop work for this project until the Owner/Architect and Architect/Engineer contracts have been signed and executed or if the Architect's Client fails to make payments to the Architect in a timely manner.

Invoices shall be sent monthly with payment due within (60) days of receipt. We reserve the right to charge interest at the rate of 1.0 percent per month on the balance outstanding, (90) days after the date of the invoice, and shall be added and compounded monthly. We reserve the right to stop work, or withhold plans and documents from the review, signature, or distribution process, until overdue account balances are rectified. Harwood Engineering shall exercise applicable lien rights for non-payment. Client shall be responsible for any legal expenses incurred.

If costs associated with this project to meet the Owner's expectations exceed the established budget, Harwood will be reimbursed to modify documents necessary to bring this project within the initial budget.

In the advent the scope of the project is altered, Harwood Engineering Consultants, Ltd. (Harwood) reserves the right to negotiate appropriate compensation for engineering such changes.

Should the project be delayed or cancelled, or if Harwood's contract is terminated, an invoice proportional to the amount of work completed up to the time of the project delay, cancellation or termination shall be issued and is payable upon receipt, whether the Owner has made payments or not. Termination of Harwood's contract shall be made in writing. If the project resumes after being suspended for more than three months, compensation shall be equitably adjusted for remobilization costs.



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Port Washington Road Streetscape - CDs

City of Mequon

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Harwood reserves the right to suspend all activity on this project until the negotiations for additional engineering services are resolved.

Conclusion

Kim & Jac, this constitutes our understanding of what is required for this project. Please call us if you have any questions or comments.

Upon your approval, we will assign a project coordinator to maintain all communications and provide you with a single point of contact concerning meeting dates, project course of action and schedule.

Harwood Engineering Consultants, Ltd. is delighted to be considered for this project. We are committed to deliver quality engineering services and team support to reach your project goals.

We thank you for this opportunity, and look forward to working with you.

Sincerely,

Harwood Engineering Consultants, Ltd.

For: **City of Mequon**

Luke J. Haas, PLA

Vice President

Director of Landscape Architecture

Signature

Title

Date



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Office of Engineering

TO: Public Works Committee
FROM: Cole McCraw, Assistant City Engineer
DATE: August 14, 2024
SUBJECT: ORDINANCE 2024-1667 An Ordinance Amending Chapter 58 of the Mequon Municipal Code Relating to WDNR MS4 Stormwater Permit Conditions

Background

The Wisconsin Department of Natural Resources (WDNR) issued a new Municipal Separate Storm Sewer System (MS4) permit to the City in 2022. These permits regulate stormwater discharges from municipalities into waters of the state and are mandated by the Clean Water Act, as the Milwaukee River is listed as an impaired waterway.

Mequon's stormwater ordinances are found in Chapter 58 - Planning and Development Regulations. Changes to this section require Planning Commission approval and a public hearing, which will be held during the second reading by the Common Council.

The primary goal of the MS4 permit is to improve water quality by reducing the amount of pollutants carried by stormwater runoff into rivers, lakes, and other water bodies. This helps to protect aquatic ecosystems, public health, and the overall environment. The most recent permit is posted on the City website here:

https://www.ci.mequon.wi.us/sites/default/files/fileattachments/public_works/page/1041/mequon_theinsville_ms4_permit_8.1.22_7.31.2027.pdf.

Analysis

MS4 permits are reissued every five years to keep up with new water quality standards. The current 2022 permit contains requirements to:

1. Revise and adopt illicit discharge, erosion control, and post-construction stormwater management ordinances (Sections II.C.1.d, II.D.1.d, and II.E.1.f)
2. Remove barriers to green infrastructure (Section II.E.4)

Staff has reviewed the City's current ordinances and proposed updates to meet the above requirements. Furthermore, the 1,000 Friends of Wisconsin group provided the City with an ordinance review in 2014 to remove barriers to green infrastructure. Staff has included those comments in the update as well. Please note that these changes are required to meet the permit conditions described above.

Staff also included updates to better enforce the Metropolitan Milwaukee Sewerage District's (MMSD) Chapter 13 Green Infrastructure (GI) Plan Requirement, as it relates to residential home construction. For homes adding 5,000 square feet or more of impervious surface and not located within a subdivision that maintains a stormwater management plan, the owner is required to install GI. The update will require property owners to install and have the GI certified prior to issuance of occupancy, and within 18 months of building permit issuance.

Mequon's MS4 permit will require more stringent stormwater requirements in the future, which will warrant additional changes to City ordinances. This may include more impactful additional requirements on development and redevelopment standards, to further reduce total suspended solids discharge and reduce total phosphorus discharge.

Fiscal Impact

The fiscal impact of the code change is neutral to the City. There may be additional costs to developers or landowners to comply with the state mandates.

Recommendation

On July 22, 2024, the Planning Commission approved a recommendation in favor of adopting the proposed ordinance amendments by a vote of 7-0. A recommendation is forthcoming from the Public Works Committee on August 14, 2024.

Attachments:

CH_58 - Tracked Changes (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2024-1667

An Ordinance Amending Chapter 58 of the Mequon Municipal Code Relating to WDNR MS4
Stormwater Permit Conditions

RECITALS

A. The Common Council previously adopted Chapter 58 of the Mequon Municipal Code, which includes regulations concerning stormwater management practices.

B. The Planning Commission and the Common Council desire that the City of Mequon regulations concerning stormwater management practices be consistent with other regulatory agencies.

C. The regulation of stormwater management practices is reasonable and necessary to protect the health, safety and welfare of the residents and the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Article VII of Chapter 58 of the Mequon Municipal Code is hereby amended to read as follows (NOTE: Added text is **bold underlined**; Deleted text is ~~struck through~~):

ARTICLE VIII. EROSION AND STORMWATER RUNOFF CONTROL

Sec. 58-671. Findings and purpose.

- (a) The city finds that urbanizing land uses have contributed a significant amount of sediment to waters of the state, county, and City of Mequon.
- (b) It is declared to be the purpose of this article to protect the quality of waters of the state, county and City of Mequon, to minimize flooding as a result of increased urbanization, and to protect and promote the health, safety, and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams and wetlands.

Sec. 58-672. Applicability of article provisions. This article applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the City of Mequon and public and private lands subject to extraterritorial review under Wis. Stats. ch. 236. All state funded or conducted

construction is exempt from this article.

Sec. 58-673. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical. In this article for nonpoint source pollution loadings, the following year and location has been selected as average annual rainfall: Milwaukee, 1969 (March 28-December 6).

Best management practices (BMPs) means structural or non-structural measures, practices, techniques or devices, as approved by ~~the Wisconsin department of natural resources (WDNR)~~, that are employed to avoid or minimize sediments or pollutants carried in runoff to waters of the state or, to manage the rate or volume of runoff.

Bioswale means a vegetated, mulched, or xeriscaped channel that provides treatment and retention as it moves stormwater from one place to another.

City engineer means any person working in the capacity of the city engineer or any person designated to represent the city engineer.

Cleaning means removing and disposing of debris in an approved manner and location versus flushing which would wash debris off a roadway and onto the shoulder or into the ditch and watercourse.

Commercial land use means the use of land for the retail or wholesale of goods or services.

Control measure means a practice or combination of practices to control erosion and attendant pollution.

Control plan means a written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this article submitted by the applicant, or a qualified representative, for review and approval by the city engineer.

Detention storage ~~is~~means the temporary holding or storage of stormwater in reservoirs, under predetermined and controlled conditions, with the rate of discharge regulated by installed outflow devices.

Downspout disconnection means rerouting of rooftop drainage pipes to drain rainwater to rain barrels, cisterns, or permeable areas instead of the storm sewer.

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

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

Financial guarantee means an escrow, performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the city by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

Flushing means washing debris off a roadway and onto the shoulder or into the ditch and watercourse.

Green Infrastructure means a BMP consisting of a runoff management system that uses vegetation, soils, and natural processes to mimic nature's ability to soak up and store storm water. Example green infrastructure BMPs include downspout disconnection, rainwater harvesting, rain gardens, planter boxes, bioswales, permeable pavement, green alleys and streets, green parking, green roofs, urban tree canopy, amended soils, and land conservation.

Green roof means a roof covered with growing media and vegetation that enables rainfall infiltration and evapotranspiration of storm water.

Illicit connections ~~is defined as~~ means either of the following:

- (a) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- ~~(b)~~ a Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect non-stormwater discharge to

the storm drain system, except as exempted in this chapter.

Land developing activity means activities associated and in conjunction with the construction of buildings, roads, parking lots, paved storage areas, and utilities (including sanitary and storm sewer, water, electric, gas, telephone, cable, etc.) and similar facilities.

Land disturbing activity means any manmade change of the land surface including removing vegetative cover, excavating, filling, and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops.

Land user means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of land.

Landowner means any person holding title to or having an interest in land.

Maintenance declaration means a legal document that provides for long-term maintenance of stormwater management practices.

Municipal separate storm sewer system (MS4) ~~is defined as~~ means the conveyance or system of conveyances including roads with drainage systems, streets, catchbasins, curbs, gutters, ditches, constructed channels or storm drains.

Peak flow ~~is~~ means the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.

Permeable pavement means improved hard surfaces that infiltrate, treat, and/or store rainwater where it falls. Permeable pavement may be constructed from pervious concrete, porous asphalt, permeable interlocking pavers, or similar materials that allow rainwater to pass through from the top surface to the soil below.

Planter Box means an urban rain garden with vertical walls and open or closed bottoms that collect and absorb runoff from sidewalks, pavements, and other impervious surfaces.

Pre-settlement condition ~~is~~ means the undeveloped condition or natural grade and vegetated state of the land that existed prior to European settlement.

Protective area ~~is~~ means an area of land that commences at the top of the bank of lakes, streams and rivers, or at the delineated boundary of wetlands, that serves to reduce the velocity of flow, filter and infiltrate runoff prior to entering the waters.

Rain Garden means a shallow, vegetated basin that collects and absorbs runoff from rooftops, pavements, and other impervious surfaces.

Rainwater Harvesting means collecting and storing rainfall for later use.

Redevelopment means areas where development is replacing older development. For the purposes of this ordinance a site is considered a redevelopment site when all of the following are met: the site has an existing building, parking lot, or other impervious area and the site is in a zoning district other than agricultural or residential.

Runoff ~~is~~means the portion of rainfall, melted snow or irrigation water that flows across the ground surface.

Sediment ~~is~~means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin.

Site means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permanent application. This may or may not include more than the area being disturbed.

Storm probability ~~is~~means the likelihood a storm of a given duration and intensity that can be expected to be equaled or exceeded in any given 365-day period. A one-percent/24-hour storm event would have a one-percent probability of occurring in any given year. The one-percent probability storm is equivalent to the previously defined 100-year storm.

WDNR means the Wisconsin Department of Natural Resources.

Sec. 58-674. Land disturbing activities subject to erosion, sediment, on-site detention and runoff control.

- (a) General requirement. Any owner, occupant or user who undertakes, commences, or performs land disturbing activities; or who permits another person to do the same, on land subject to this section, shall be made to comply with this section. Agricultural land uses are exempt from this section unless state and county agencies fail to gain compliance with accepted standards. Unless more stringent criteria is specified in this section, all property development disturbing one or more acres or that increases impervious surface by one-half acre or more must comply with this section.
- (b) Land disturbing activities subject to erosion and sediment control are as follows:
 - (1) All subdivisions, land divisions, condominium developments and/or the construction of residential, commercial, industrial or

- institutional buildings.
 - (2) All grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 square feet or more.
 - (3) Any excavation or filling or a combination of excavation and filling.
 - (4) Any street, highway, road, or bridge construction, enlargement, relocation or reconstruction.
 - (5) Any laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300-feet or more.
- (c) Land disturbing activities subject to on-site detention and runoff control are as follows:
- (1) Development having a gross aggregate area of one acre, or more; or developments of less than one acre if they are part of a larger common plan of development or sale within City jurisdiction; or
 - (2) Development that involves the increase of one-half acre or more of impervious surface; or
 - (3) Developments where, in the opinion of the city engineer, the runoff from the activity will exceed the safe capacity of the existing drainage facilities and/or receiving water body; or cause undue channel erosion; or increase water pollution by scour and transport of particles; or negatively impact the downstream property.
- (d) Development or redevelopment that will increase impervious surface by an area equal to or greater than 5,000 square feet but less than 21,780 square feet (one-half acre), on a net basis, shall include green infrastructure as required by MMSD Rules Chapter 13: Surface Water and Stormwater. If the new impervious surface is within a residential subdivision for which MMSD has approved a stormwater runoff management plan, then no additional stormwater runoff management is required.
- (e) Erosion and sediment control regulations for lands not otherwise subject to this section. Any owner, occupant or user who permits erosion, sediment deposits, tracking or dropping of dirt on adjacent land, public streets or bodies of water from land not otherwise subject to this section, shall be deemed in violation of this section ~~and subject to the penalties provided in chapter 2 of this Code of Ordinances.~~

Sec. 58-675. Standards, specifications and design criteria.

- (a) *Site erosion control.* Plans will not be approved nor permits issued unless erosion and sedimentation leaving the site during and after the land disturbance will not exceed that which would have been eroded if the land had been left in its undisturbed state and are controlled in accordance with procedures established within the most current version of the standard

specifications for land development in the City of Mequon, ~~the Wisconsin department of natural resources (WDNR)~~ Stormwater Management Technical Standards, the Wisconsin Stormwater Manual, the Soil Conservation Service Technical Guide, and the Ozaukee County Land Conservation Guidelines. In addition to these guidelines, the following requirements apply:

- (1) All activities on the site shall be conducted in a logical sequence to minimize the area of unstabilized soil at any one time. The limits of disturbance must be demarcated prior to the commencement of land disturbing activity and remain throughout construction.
 - (2) Unstabilized soil may not be left over the winter months. If construction is not anticipated to be completed in the existing season, temporary annual seed or sod, or equivalent control measures approved by the city engineer must be installed prior to September 30 on all areas that have bare soil.
 - (3) All disturbed ground left exposed and inactive for seven or more calendar days shall be stabilized by seeding and mulching or sodding, or other equivalent control measure approved by the city engineer.
 - (4) For sites with more than one acre disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins, or other erosion control measures approved by the city engineer, shall be constructed to minimize channelized flow and erosion. The control measures shall be constructed to the specifications as outlined in the above referenced publications.
 - (5) For sites with less than one acre disturbed at one time, filter fences, straw bales, or equivalent control measures approved by the city engineer, shall be placed along the perimeter of all undisturbed side slope and down slope sides of the site. If a channel or area of concentrated runoff passes through the site, erosion control measures, including protective areas as defined in this article shall be employed to ensure that no sediment reaches the channel.
 - (6) Any soil or dirt storage shall not be located with a down slope drainage length across a fully vegetated area of less than 25 feet to a roadway, drainage channel, or body of water. If remaining for more than 30 days, the soils should be stabilized with mulch, vegetative cover, tarps or other means. Erosion from soils in existence less than 30 days shall be controlled by placing straw bales, filter fence barrier, or other erosion control measures approved by the city engineer, around the soils.
 - (7) Erosion control measures shall remain in place and be maintained until such time when construction has been completed and final stabilization has been established.
- (b) *Drain inlet protection.* All storm drain inlets shall be protected during the construction and vegetation growth periods with a straw bale, filter fabric,

or equivalent barrier meeting accepted design criteria, standards and specifications as outlined in the above referenced publications.

- (c) *Site dewatering.* Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, or other controls designed to limit discharge of total suspended solids (TSS) to 40 mg/l for the highest dewatering pumping rate. Water may not be discharged in a manner that causes erosion of the site or receiving channels, or in any manner that may cause damage to property as a result of concentrated water flow.
- (d) *Tracking.* Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday. Construction of a gravel/stone tracking area shall comply with the most current versions of the WDNR Stormwater Management Technical Standards, the Wisconsin Stormwater Manual and Mequon standard specifications.
- (e) *On-site detention and runoff control.* Activities subject to on-site detention and runoff control regulation under the ordinance from which this article is derived shall comply with the following standards:
 - (1) The one-percent/24-hour storm; ten-percent/24-hour storm; and 50-percent/24-hour storm peak rate of runoff after the proposed and finalized development activities may not exceed the peak rate of runoff which would have resulted from the one-percent/24-hour storm; ten-percent/24-hour storm; and 50-percent/24-hour storm event respectively occurring over the site with the land in its pre-settlement condition.
 - a. For redevelopment, by design, the one-percent/24-hour storm; ten-percent/24-hour storm; and 50-percent/24-hour storm peak rate of runoff after the proposed and finalized development activities may not exceed the peak rate of runoff which would have resulted from the one-percent/24-hour storm; ten-percent/24-hour storm; and 50-percent/24-hour storm event respectively occurring over the site with the land in its existing condition. Redevelopments are exempt from the pre-settlement requirements.
 - b. The maximum pre-settlement runoff curve numbers being no greater than:
 - 30 for hydrologic soil group A,
 - 55 for hydrologic soil group B,
 - 70 for hydrologic soil group C,
 - 77 for hydrologic soil group D.
 - (2) Where on-site detention is required for runoff control, the

- detention facilities shall safely contain the runoff of a one-percent/24-hour storm event of any duration and safely pass/release the detained water at the rates as defined in subsection (e)(1) above through a v-notch weir control structure or other outlet control device as approved by the city engineer.
- (3) Compliance with the latest edition of the state resources conservation practice standard for wet detention basin design shall be used as a guide and set the minimum standards for the construction of all stormwater detention facilities.
 - (4) All stormwater runoff calculations and detention basin design shall be performed by a professional engineer licensed in the state to practice in the respective field.
- (f) *Total suspended solids (TSS).* BMPs shall be designed, installed and maintained to control suspended solids carried in runoff as follows:
- (1) For new development, by design, reduce to the maximum extent practicable, the total suspended solid load by 80 percent, based on the average annual rainfall, as compared to no runoff management controls.
 - (2) For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solid load by 40 percent, based on the average annual rainfall, as compared to no runoff management controls.
- (g) *Infiltration.* BMPs shall be designed, installed and maintained to infiltrate runoff so that post-development infiltration volume shall be at least that of the pre-settlement infiltration volume based on the average annual rainfall. The city engineer may determine exceptions based on site history, land use and soil conditions.
- (h) *BMP design.* All BMPs shall be designed and stamped by a professional engineer licensed in the state to practice in the respective field, applying the most current technology and information available as accepted by the WDNR or the Milwaukee ~~m~~Metropolitan ~~s~~Sewerage ~~d~~District (MMSD) and approved by the city engineer. BMPs may not be altered from the original city approved design without prior written approval by the city engineer.
- (i) *Protective areas.* A set-back distance of natural, vegetated areas of land, that are the greatest of the following widths as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface, shall exist to protect the following resource waters. However, in this subsection, "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.
- (1) For outstanding resource waters and exceptional resource waters,

~~and for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code § NR 103.04, 75 feet.~~

- (2) 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.
 - (3) For lakes, 50 feet.
 - (4) For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, shrub-lowland hardwood swamps, and ephemeral ponds ~~other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Wis. Admin. Code § NR 103.08(1m). 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.~~
 - (5) For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass, cultivated hydric soils, and any gravel pits, dredged material, or fill material disposal sites that take on the attributes of a wetland.
 - (6) In this section, 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 Wis. Admin. Code § NR 103.03.
 - (7) For concentrated flow channels with drainage areas greater than 130 acres, ten feet.
 - (8) Where there are contiguous areas requiring protection under (1) through (7) above, this section shall be interpreted in a manner such that the greatest protective area width shall apply.
 - (9) Wetland boundary delineation shall be made in accordance with Wis. Admin. Code § NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
- (j) Construction Site Waste. Construction site operators shall manage waste including, but not limited to, discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site in a manner that reduces adverse impacts to waters of the state.

Sec. 58-676. Application and issuance of permits. No landowner or land user may commence land disturbance activity or land developing activity, as those terms are defined and used in section 58-675 of this chapter, without receiving prior approval of a control plan for the site and a permit from the city engineer. At least one landowner or land user, controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this section shall submit an application for a permit and a control plan and pay an application fee to the city engineer. By submitting an application, the applicant is authorizing the city engineer to enter the site to obtain information required for the review of the control plan.

(1a) *Content of control plan required.* For land disturbing activities covering one acre or more.

~~a.~~(1) Site boundaries and adjacent lands.

~~b.~~(2) A map showing existing topography of the proposed site and 200 feet onto adjacent properties. Site contour interval shall be a two-foot minimum.

~~c.~~(3) Vegetative cover and soil type.

~~d.~~(4) Limits of 100-year floodplain and all watercourses, whether or not it is affected by the proposed development.

~~e.~~(5) Location and dimensions of stormwater drainage systems and natural drainage patterns on and 200 feet adjacent to the site.

~~f.~~(6) Locations and dimensions of existing; utilities, structures, roads, highways, paving, lot lines and outlots.

~~g.~~(7) Proposed conditions of the site shall include:

1a. Locations and dimensions of all proposed land disturbing activities, including finished topography at a minimum two-foot intervals.

2b. Location and dimensions of all temporary soil and dirt stockpiles.

3c. Location and dimensions of all construction site best management practice control measures necessary to meet the requirements of this section. All construction details should be shown on the plan.

4d. Location, dimensions and description of all channels, pipes, structures, basins or reservoirs, or other conveyances proposed to carry runoff to the nearest adequate outlet, including applicable design assumptions and computations. The applicable design discharge rate, in cubic feet per second, for each structure, pipe, channel, or conveyance. Design flow velocity for all channels and outlets shall be indicated.

5e. Areas to be sodded or seeded and mulched or otherwise stabilized with vegetation, describing type of final vegetative cover, including the location and type of all vegetated stormwater management measures. Type and

quality of mulch and method of anchoring shall be indicated, as well as seeding mixtures, rates, lime and fertilizer application rate for temporary or permanent seeding.

~~6f.~~ Schedule of anticipated starting and completion date of each land disturbing and land developing activity including the installation of construction site best management practice control measures needed to meet the requirements of this section.

~~7g.~~ Provisions for maintenance of the construction site best management practice control measures during construction.

~~(2b)~~ *Content of control plan required.* For land disturbing activities covering less than one acre, but meeting applicability requirements provided in this section of this chapter an erosion control plan statement, with an included map illustrating existing and proposed topography, areas of disturbance and erosion control measures, shall be submitted to briefly describe the site and erosion controls that will be used to meet the requirements of this section.

~~(3c)~~ *Review of control plan.*

~~a.(1)~~ Within 30 days of receipt of the application, control plan, or control plan statement and fee, the city engineer shall review the application and control plan to determine if the requirements of this section are met. The city engineer may request comments from other departments or agencies. If the requirements of this section are met, the city engineer shall approve the plan, inform the applicant and issue a permit upon receipt of the fee payment.

~~b.(2)~~ If the conditions are not met, the city engineer shall inform the applicant in writing and may either require additional information or disapprove the plan. Within 15 days of receipt of needed information, the city engineer shall again determine if the plan meets the requirements of this section. If the plan is disapproved, the city engineer shall inform the applicant in writing of the reasons for the disapproval.

Sec. 58-677. Permits.

(a) *Duration.* Permits shall be valid for a period of 180 days, or the length of a building permit, whichever is longer. The city engineer may extend the period one or more times for up to a total of 180 days. The city engineer may require additional control measures as a condition of the extension if they are necessary to ensure compliance with the requirements of this section. If proposed conditions change, and are deemed significant, the city engineer has the authority to declare the permit null and void. The city engineer shall notify the applicant in writing within 15 days of the decision and will request that another permit be submitted with the revised

control plan.

(b) *Drainage financial guarantee.*

(1) Establishment of the guarantee.

- a. The city engineer shall require the submittal of a financial guarantee, the form and type of which shall be acceptable to the city.
- b. The financial guarantee shall give the city the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the city that the requirements of this ordinance have not been met.
- c. For land disturbing activities listed in section 58-674(c): The financial guarantee shall be in an amount equal to 125 percent of the estimated cost of construction and maintenance of the stormwater management practices, as determined by the city, during the period which the designated party in the maintenance agreement has maintenance responsibility. The applicant shall provide to the city engineer the estimated costs of construction and maintenance which shall be calculated, stamped and signed by a professional engineer registered in the State of Wisconsin.
- d. For land disturbing activities listed in section 58-674(d): The financial guarantee shall be in the amount listed in the annual fee resolution.

(2) Conditions for release.

- a. The city shall release the portion of the financial guarantee established under this section, less any costs incurred by the city to complete installation of practices, upon submission of a certification in accordance with section 58-678(h). The city may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
- b. The city shall release the portion of the financial guarantee established under this section to assure maintenance of BMPs, less 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 declaration agreement.

(c) *Permit conditions.*

- (1) Land disturbing activities may not commence until all conditions

of the permit and items on the control plan are carried out, inspected and approved by the city engineer.

- (2) The city engineer must be notified 48 hours prior to commencing land disturbing activities.
- (3) The city engineer shall be notified after control measures are installed, and prior to land disturbing activities so that he may conduct a field inspection to confirm that all proposed measures are installed according to the control plan. Written authorization to proceed with land disturbing activities must be obtained from the city engineer prior to commencement of construction.
- (4) Written permission shall be obtained from the city engineer prior to modifying the control plan.
- (5) All control measures as identified in the approved control plan shall be installed by the applicant.
- (6) All road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan shall be maintained by the applicant.
- (7) Any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities shall be repaired by the applicant.
- (8) Erosion control measures and the limits of disturbance shall be inspected by the applicant, and necessary repairs made after each rain of one-half inches or more and at least once a week.
- (9) The city engineer, or an agent thereof, shall be allowed to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.
- (10) A copy of the control plan shall always be kept on site.
- (11) Upon written notification by the city engineer, the applicant shall remove specified erosion control measures after the site has been deemed stabilized.

(d) Inspection.

- (1) The city engineer, or an agent thereof, shall inspect construction sites at least once ~~a month~~ every 45 days for active sites, 60 days for inactive sites, or after a rainfall of one-half inch or more during the period starting March 1 and ending October 31, and at least two times during the period starting November 1 and ending February 28 to ensure compliance with the control plan.
- (2) If land disturbing or land development activities are being carried out without a permit, the city engineer shall have authority to enter the land pursuant to the provisions of Wis. Stats. § 66.0119.

(e) Enforcement.

- (1) The city engineer may post a stop work order if:
 - a. Any land disturbing or land developing activity regulated

- under this section is being undertaken without a permit.
- b. The control plan is not being implemented in a good faith manner.
 - c. The conditions of the permit are not being met.
 - d. Control measures and the limits of disturbance are not being maintained in a good faith manner.
- (2) If the permittee does not cease the activity or comply with the control plan or permit conditions within seven days, the city engineer may revoke the permit.
 - (3) If the landowner or land user where no permit has been issued does not cease the activity within seven days, the city engineer may request the city attorney to obtain a cease and desist order.
 - (4) The city engineer or board of appeals may retract the stop work order or the revocation.
 - (5) Five work days after posting a stop work order, the city engineer may issue a notice of intent to the permittee or landowner or land user of the city engineer's intent to perform work necessary to comply with this section. The city engineer may go on the land and commence the work five working days from issuing the notice of intent. The cost of the work performed by the city engineer, plus interest is to be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Wis. Stats. § 66.60(16).
 - ~~(6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense.~~

Sec. 58-678. Best management practice ("BMP") maintenance.

- (a) All BMPs shall be maintained and cared for by the developer and subsequently, at such time as the developer passes control of the property and responsibility for general maintenance to a homeowner's association, condominium association, or owner(s) (the "responsible party"), by such responsible party. If a homeowner's association or condominium association is not created or later ceases to exist, and no specific owner(s) are specified in any recorded document as the responsible party, the responsible party shall be each lot in the subdivision or each condominium unit. If a subdivision or condominium was created in phases, all phases shall collectively be considered one subdivision or condominium for purposes of this section.
- (b) If, in the opinion of the City of Mequon, the developer and the responsible

party fail to maintain such BMP, the city is authorized to give the developer and/or the responsible party written notice requiring either or both within 30 days thereafter to cure the failure and to maintain and to provide the required care. If the developer and/or the responsible party fails to comply with the demands of the notice, the city shall have the right to provide the required maintenance and to include in the annual tax bill for each lot in the subdivision or condominium unit a proportionate share of the cost of such maintenance.

- (c) A homeowner's association or condominium association created by the developer shall be a non-profit, non-stock, Wisconsin corporation; the members of which will be the individual owners of the lots in the subdivision or condominium units.
- (d) The developer or responsible party shall, at its expense, provide normal, visual and customary cleaning, maintenance and certification to the BMPs located in subdivision/property, which may include weed and algae control, dam stabilization, outlet structure (including trash rack), dredging and biological control.
- (e) Dredging of the detention basin/pond requires approval under Wis. Stats. § 30.20, a permit to remove materials from the bed of a pond ultimately connected to the Milwaukee River from ~~the Wisconsin Department of Natural Resources (WDNR).~~
- (f) The application of EPA/state registered chemicals to detention basins/ponds or lakes is regulated by the WDNR. With few exceptions, a permit must be filed with, and approved by the WDNR, prior to chemical treatment. In certain circumstances, a representative of the department will monitor or supervise the chemical treatment. Contact the department for additional information.
- (g) BMPs shall be inspected and checked by an independent engineer or licensed land surveyor and recertified that the BMP complies with the original design standards before transfer to the homeowner's association or condominium association for residential development, or prior to an occupancy permit for commercial development. Thereafter, the responsible party would be responsible to recertify the BMP as follows:
 - (1) All initially constructed BMPs must be inspected within two years from the date of adoption of the ordinance from which this section is derived;
 - (2) Thereafter, all BMPs constructed prior to January 1, 1994, shall be required to be inspected and recertified every five years;
 - (3) All BMPs constructed after January 1, 1994, shall be inspected and recertified in one additional two-year cycle and every five years thereafter. Any deficiencies shall be corrected immediately. The city engineering department shall be notified three working days in

advance of the inspection and no more than five working days after corrections have been made. A written report, not limited to photographs or diagrams of the deficiency and corrections with the certification, shall be submitted to the city engineering department for review and approval. Specific areas shall include, but not be limited to:

- _____ Pond containment berms are stable and free of animal burrowings
- _____ Detention storage
- _____ Erosion
- _____ Vegetative cover
- _____ Sediment accumulation
- _____ Trash rack/culvert functions
- _____ Outlet flow

- (h) BMPs may not be altered from the original city approved design without prior written approval by the city engineer. Failure to comply will result in the issuance of a municipal citation as in this section.
- (i) The city engineer has the authority to stop work, amend, or alter remediation measures to the detention basins/ponds. ~~Any person violating any of the provisions of this section shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense.~~
- (j) If a homeowner's association or condominium association does not exist, the city shall require recertification of the detention basin/pond to the time just prior to the city's release of the developer's drainage financial guarantee.

Sec. 58-679. Clear water discharge; sump pumps.

- (a) All other rulings pertaining to rain water connections shall be as per state code.
- (b) Clear water discharge and sump pumps shall also adhere to article IV, Plumbing Code of the City of Mequon Code of Ordinances.
- (c) Sump pump discharge.
 - (1) All sump pumps installed for the purpose of discharging clear waters from foundation drains and ground infiltration must:
 - a. Be directly connected to a storm sewer when available.
 - b. Where the building is not serviced by a storm sewer, the sump pump shall discharge to the roadside drainage ditch. The discharge location shall be at the top of the ditch or as

- approved by the City Engineer or his/her designee.
- c. Where a storm sewer or roadside drainage ditch is unavailable, the sump pump discharge may be made to an approved drainage facility only with the approval of the City Engineer or his/her designee.
 - d. Sump discharge shall not be allowed to drain onto a paved roadway or curb and gutter.
 - e. In no case shall the sump pump discharge be directed towards or onto adjacent properties or create a nuisance.
- (2) Sump pump discharge pipes at the structure shall be located above the permanent ground grade unless otherwise approved by the City Engineer or his/her designee. A pipe disconnect coupling shall be installed so that the above ground portion of the discharge pipe can be disconnected from the underground portion if necessary during freezing weather.
- (d) Buildings in existence prior to July 1, 1973, and having sump pumps installed for the purpose of discharging clear water from foundation drains and ground infiltration may discharge either into a storm sewer lateral leading to a storm sewer, drainage ditch or onto the ground.
 - (e) Any new sump pump crocks installed shall adhere to section 58-679(c).
 - (f) The plumbing inspector or his designated agent may complete inspections in accordance with section 10-115.

Sec. 58-680. Penalties. Any person violating any of the provisions of this ordinance shall be subject to a forfeiture as provided in section 1-7, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense. In addition to any forfeiture provided for above, in the event that any violation of this ordinance results in another regulatory body assessing a financial penalty against the city or if the city incurs any costs and expenses to avoid such financial penalty, any person violating the provisions of this ordinance shall also be liable to the city in the amount of any such financial penalty, costs or expenses.

SECTION II

Section 58-706 of the Mequon Municipal Code is hereby amended to read as follows
(NOTE: Added text is **bold underlined**; Deleted text is ~~struck through~~):

Sec. 58-706. Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal

discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person, shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least ~~three~~five years. If the spill threatens waters of the state, the spill hotline should be notified at 1-800-943-0003.

SECTION III

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION IV

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION V

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

Approved by: Andrew Nerbun, Mayor

Date Approved: August 14, 2024

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 14, 2024.

Caroline Fochs, City Clerk

Published: _____

CITY OF MEQUON CODE OF ORDINANCES
Chapter 58 - PLANNING AND DEVELOPMENT REGULATIONS

TRACKED CHANGES

Sec. 58-673. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical. In this article for nonpoint source pollution loadings, the following year and location has been selected as average annual rainfall: Milwaukee, 1969 (March 28—December 6).

Best management practices (BMPs) means structural or non-structural measures, practices, techniques or devices, as approved by the Wisconsin department of natural resources (WDNR), that are employed to avoid or minimize sediments or pollutants carried in runoff to waters of the state or, to manage the rate or volume of runoff.

Bioswale means a vegetated, mulched, or xeriscaped channel that provides treatment and retention as it moves stormwater from one place to another.

City engineer means any person working in the capacity of the city engineer or any person designated to represent the city engineer.

Cleaning means removing and disposing of debris in an approved manner and location versus flushing which would wash debris off a roadway and onto the shoulder or into the ditch and watercourse.

Commercial land use means the use of land for the retail or wholesale of goods or services.

Control measure means a practice or combination of practices to control erosion and attendant pollution.

Control plan means a written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this article submitted by the applicant, or a qualified representative, for review and approval by the city engineer.

Critical Time means the period starting at the time of peak rainfall intensity with a duration equal to the time of concentration of the watershed.

Detention storage is the temporary holding or storage of stormwater in reservoirs, under predetermined and controlled conditions, with the rate of discharge regulated by installed outflow devices.

Downspout Disconnection means rerouting of rooftop drainage pipes to drain rainwater to rain barrels, cisterns, or permeable areas instead of the storm sewer.

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

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

Financial guarantee means an escrow, performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the city by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

Flushing means washing debris off a roadway and onto the shoulder or into the ditch and watercourse.

Green Infrastructure means a runoff management system that uses vegetation, soils, and natural processes to mimic nature's ability to soak up and store storm water. Example green infrastructure BMPs include downspout disconnection, rainwater harvesting, rain gardens, planter boxes, bioswales, permeable pavements, green alleys and streets, green parking, green roofs, urban tree canopy, amended soils, and land conservation.

Green Roof means a roof covered with growing media and vegetation that enables rainfall infiltration and evapotranspiration of storm water.

Illicit connections is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in this chapter.

In-Fill Area means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural man-made features where development cannot occur. "In-fill" does not include any undeveloped area that was part of a larger new development for which a notice of intent to apply for a storm water permit in accordance with Wis. Adm. Code Chm NR 216 Subch. III was required to be submitted after October 1, 2004.

Land developing activity means activities associated and in conjunction with the construction of buildings, roads, parking lots, paved storage areas, and utilities (including sanitary and storm sewer, water, electric, gas, telephone, cable, etc.) and similar facilities.

Land disturbing activity means any manmade change of the land surface including removing vegetative cover, excavating, filling, and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops.

Land user means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of land.

Landowner means any person holding title to or having an interest in land.

Maintenance Declaration means a legal document that provides for long-term maintenance of stormwater management practices.

Municipal separate storm sewer system (MS4) is defined as the conveyance or system of conveyances including roads with drainage systems, streets, catchbasins, curbs, gutters, ditches, constructed channels or storm drains.

Peak flow is the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.

Permeable Surfacing means improved surfaces that infiltrate, treat, and/or store rainwater where it falls. Permeable surfacing may be constructed from pervious concrete, porous asphalt, permeable interlocking pavers, and several other materials.

Planter Box means an urban rain garden with vertical walls and open or closed bottoms that collect and absorb runoff from sidewalks, pavements, and other impervious surfaces.

Pre-settlement condition is the undeveloped condition or natural grade and vegetated state of the land that existed prior to European settlement.

Protective area is an area of land that commences at the top of the bank of lakes, streams and rivers, or at the delineated boundary of wetlands, that serves to reduce the velocity of flow, filter and infiltrate runoff prior to entering the waters.

Rain Garden means a shallow, vegetated basin that collects and absorbs runoff from rooftops, pavements, and other impervious surfaces.

Rainwater Harvesting means collecting and storing rainfall for later use.

Redevelopment means areas where development is replacing older development. For the purposes of this ordinance a site is considered a redevelopment site when all of the following are met: the site has an existing building, parking lot, or other impervious area and the site is in a zoning district other than agricultural or residential.

Runoff is the portion of rainfall, melted snow or irrigation water that flows across the ground surface.

Runoff Release Rate means the volume of storm water flowing off of development per unit of time and area.

Sediment is solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin.

Site means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permanent application. This may or may not include more than the area being disturbed.

Storm probability is the likelihood a storm of a given duration and intensity that can be expected to be equaled or exceeded in any given 365-day period. A one-percent/24-hour storm event would have a one-percent probability of occurring in any given year. The one-percent probability storm is equivalent to the previously defined 100-year storm.

Time of Concentration means the time required for the point furthest from the outlet of the watershed to contribute to flow at the outlet of the watershed.

(Code 1957, § 3.17(3); Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2015-1453, § II, 7-14-2015; Ord. No. 2017-1511, § I, 1-9-2018)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 58-674. Land disturbing activities subject to erosion, sediment, on-site detention and runoff control.

- (a) General requirement. Any owner, occupant or user who undertakes, commences, or performs land disturbing activities; or who permits another person to do the same, on land subject to this section, shall be made to comply with this section. Agricultural land uses are exempt from this section unless state and county agencies fail to gain compliance with accepted standards. Unless more stringent criteria is specified in this section, all property development disturbing one or more acres or that increases impervious surface by one-half acre or more must comply with this section.
- (b) Land disturbing activities subject to erosion and sediment control are as follows:
 - (1) All subdivisions, land divisions, condominium developments and/or the construction of residential, commercial, industrial or institutional buildings.
 - (2) All grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 square feet or more.
 - (3) Any excavation or filling or a combination of excavation and filling.
 - (4) Any street, highway, road, or bridge construction, enlargement, relocation or reconstruction.

- (5) Any laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300-feet or more.
- (c) Land disturbing activities subject to on-site detention and runoff control are as follows:
- (1) Development having a gross aggregate area of one acre, or more; or developments of less than one acre if they are part of a larger common plan of development or sale within City jurisdiction; or
 - (2) Development that involves the increase of one-half acre or more of impervious surface; or
 - (3) Developments where, in the opinion of the city engineer, the runoff from the activity will exceed the safe capacity of the existing drainage facilities and/or receiving water body; or cause undue channel erosion; or increase water pollution by scour and transport of particles; or negatively impact the downstream property.
- (d) Development or redevelopment that will increase impervious surface by an area equal to or greater than 5,000 square feet but less than 21,780 square feet (one-half acre), on a net basis, shall include green infrastructure as required by MMSD Rules Chapter 13: Surface Water and Stormwater. If the new impervious surface is within a residential subdivision for which MMSD has approved a stormwater runoff management plan, then no additional stormwater runoff management is required.
- (e) Erosion and sediment control regulations for lands not otherwise subject to this section. Any owner, occupant or user who permits erosion, sediment deposits, tracking or dropping of dirt on adjacent land, public streets or bodies of water from land not otherwise subject to this section, shall be deemed in violation of this section and subject to the penalties provided in chapter 2 of this Code of Ordinances.
- (Code 1957, § 3.17(4); Ord. No. 98-965, 9-17-1999; Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2022-1625, § I, 8-10-2022)

Sec. 58-675. Standards, specifications and design criteria.

- (a) *Site erosion control.* Plans will not be approved nor permits issued unless erosion and sedimentation leaving the site during and after the land disturbance will not exceed that which would have been eroded if the land had been left in its undisturbed state and are controlled in accordance with procedures established within the most current version of the standard specifications for land development in the City of Mequon, the Wisconsin department of natural resources (WDNR) Stormwater Management Technical Standards, the Wisconsin Stormwater Manual, the Soil Conservation Service Technical Guide, and the Ozaukee County Land Conservation Guidelines. In addition to these guidelines, the following requirements apply:
- (1) All activities on the site shall be conducted in a logical sequence to minimize the area of unstabilized soil at any one time. Limits of disturbance must be demarcated prior to the commencement of land disturbance activity and remain throughout construction.
 - (2) Unstabilized soil may not be left over the winter months. If construction is not anticipated to be completed in the existing season, temporary annual seed or sod, or equivalent control measures approved by the city engineer must be installed prior to September 30 on all areas that have bare soil.
 - (3) All disturbed ground left exposed and inactive for seven or more calendar days shall be stabilized by seeding and mulching or sodding, or other equivalent control measure approved by the city engineer.
 - (4) For sites with more than one acre disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins, or other erosion control measures approved by the city engineer, shall be constructed to minimize channelized flow and erosion. The control measures shall be constructed to the specifications as outlined in the above referenced publications.
 - (5) For sites with less than one acre disturbed at one time, filter fences, straw bales, or equivalent control measures approved by the city engineer, shall be placed along the perimeter of all undisturbed side slope and down slope sides of the site. If a channel or area of concentrated runoff passes through the

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- site, erosion control measures, including protective areas as defined in this article shall be employed to ensure that no sediment reaches the channel.
- (6) Any soil or dirt storage shall not be located with a down slope drainage length across a fully vegetated area of less than 25 feet to a roadway, drainage channel, or body of water. If remaining for more than 30 days, the soils should be stabilized with mulch, vegetative cover, tarps or other means. Erosion from soils in existence less than 30 days shall be controlled by placing straw bales, filter fence barrier, or other erosion control measures approved by the city engineer, around the soils.
 - (7) Erosion control measures shall remain in place and be maintained until such time when construction has been completed and final stabilization has been established.
- (b) *Drain inlet protection.* All storm drain inlets shall be protected during the construction and vegetation growth periods with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications as outlined in the above referenced publications.
 - (c) *Site dewatering.* Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, or other controls designed to limit discharge of total suspended solids (TSS) to 40 mg/l for the highest dewatering pumping rate. Water may not be discharged in a manner that causes erosion of the site or receiving channels, or in any manner that may cause damage to property as a result of concentrated water flow.
 - (d) *Tracking.* Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday. Construction of a gravel/stone tracking area shall comply with the most current versions of the WDNR Stormwater Management Technical Standards, the Wisconsin Stormwater Manual and Mequon standard specifications.
 - (e) *On-site detention and runoff control.* Activities subject to on-site detention and runoff control regulation under the ordinance from which this article is derived shall comply with the following standards:
 - (1) The one-percent/24-hour storm; ten-percent/24-hour storm; and 50-percent/24-hour storm peak rate of runoff after the proposed and finalized development activities may not exceed the peak rate of runoff which would have resulted from the one-percent/24-hour storm; ten-percent/24-hour storm; and 50-percent/24-hour storm event respectively occurring over the site with the land in its pre-settlement condition.
 - a. For redevelopment, by design, the one-percent/24-hour storm; ten-percent/24-hour storm; and 50-percent/24-hour storm peak rate of runoff after the proposed and finalized development activities may not exceed the peak rate of runoff which would have resulted from the one-percent/24-hour storm; ten-percent/24-hour storm; and 50-percent/24-hour storm event respectively occurring over the site with the land in its existing condition. Redevelopments are exempt from the pre-settlement requirements.
 - b. The maximum pre-settlement runoff curve numbers being no greater than:
 - 30 for hydrologic soil group A,
 - 55 for hydrologic soil group B,
 - 70 for hydrologic soil group C,
 - 77 for hydrologic soil group D.
 - (2) Where on-site detention is required for runoff control, the detention facilities shall safely contain the runoff of a one-percent/24-hour storm event of any duration and safely pass/release the detained water at the rates as defined in subsection (e)(1) above through a v-notch weir control structure or other outlet control device as approved by the city engineer.
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- (3) Compliance with the latest edition of the state resources conservation practice standard for wet detention basin design shall be used as a guide and set the minimum standards for the construction of all stormwater detention facilities.
 - (4) All stormwater runoff calculations and detention basin design shall be performed by a professional engineer licensed in the state to practice in the respective field.
 - (f) *Total suspended solids (TSS)*. BMPs shall be designed, installed and maintained to control suspended solids carried in runoff as follows:
 - (1) For new development, by design, reduce to the maximum extent practicable, the total suspended solid load by 80 percent, based on the average annual rainfall, as compared to no runoff management controls.
 - (2) For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solid load by 40 percent, based on the average annual rainfall, as compared to no runoff management controls.
 - (g) *Infiltration*. BMPs shall be designed, installed and maintained to infiltrate runoff so that post-development infiltration volume shall be at least that of the pre-settlement infiltration volume based on the average annual rainfall. The city engineer may determine exceptions based on site history, land use and soil conditions.
 - (h) *BMP design*. All BMPs shall be designed and stamped by a professional engineer licensed in the state to practice in the respective field, applying the most current technology and information available as accepted by the WDNR or the Milwaukee metropolitan sewerage district (MMSD) and approved by the city engineer. BMPs may not be altered from the original city approved design without prior written approval by the city engineer.
 - (i) *Protective areas*. A set-back distance of natural, vegetated areas of land, that are the greatest of the following widths as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface, shall exist to protect the following resource waters. However, in this subsection, "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.
 - (1) For outstanding resource waters and exceptional resource waters, ~~and for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code § NR 103.04,~~ 75 feet.
 - (2) 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.
 - (3) For lakes, 50 feet.
 - (4) For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: Calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, shrub lowland hardwood swamps, and ephemeral ponds, ~~other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins.~~ Wetland boundary delineations shall be made in accordance with Wis. Admin. Code § NR 103.08(1m). ~~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.~~
 - (5) For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass, cultivated hydric soils, and any gravel pits, dredged material, or fill material disposal sites that take on the attributes of a wetland.
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- (6) In this section, 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 Wis. Admin. Code § NR 103.03.
- (7) For concentrated flow channels with drainage areas greater than 130 acres, ten feet.
- (8) Wetland boundary delineation shall be made in accordance with s. Wis. Adm. Code [NR] 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
- (9) Notwithstanding (1) through (7) above, the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.
- (j) Construction Site Waste. Construction site operators shall manage waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site so to reduce adverse impacts to waters of the state.

(Code 1957, § 3.17(5); Ord. No. 98-965, 9-17-1999; Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2017-1511, § II, 1-9-2018)

Sec. 58-676. Application and issuance of permits.

No landowner or land user may commence land disturbance activity or land developing activity, as those terms are defined and used in section 58-675 of this chapter, without receiving prior approval of a control plan for the site and a permit from the city engineer. At least one landowner or land user, controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this section shall submit an application for a permit and a control plan and pay an application fee to the city engineer. By submitting an application, the applicant is authorizing the city engineer to enter the site to obtain information required for the review of the control plan.

- (1) *Content of control plan required.* For land disturbing activities covering one acre or more.
 - a. Site boundaries and adjacent lands.
 - b. A map showing existing topography of the proposed site and 200 feet onto adjacent properties. Site contour interval shall be a two-foot minimum.
 - c. Vegetative cover and soil type.
 - d. Limits of 100-year floodplain and all watercourses, whether or not it is affected by the proposed development.
 - e. Location and dimensions of stormwater drainage systems and natural drainage patterns on and 200 feet adjacent to the site.
 - f. Locations and dimensions of existing; utilities, structures, roads, highways, paving, lot lines and outlots.
 - g. Proposed conditions of the site shall include:
 - 1. Locations and dimensions of all proposed land disturbing activities, including finished topography at a minimum ~~two feet~~two-foot intervals.
 - 2. Location and dimensions of all temporary soil and dirt stockpiles.

3. Location and dimensions of all construction site best management practice control measures necessary to meet the requirements of this section. All construction details should be shown on the plan.
 4. Location, dimensions and description of all channels, pipes, structures, basins or reservoirs, or other conveyances proposed to carry runoff to the nearest adequate outlet, including applicable design assumptions and computations. The applicable design discharge rate, in cubic feet per second, for each structure, pipe, channel, or conveyance. Design flow velocity for all channels and outlets shall be indicated.
 5. Areas to be sodded or seeded and mulched or otherwise stabilized with vegetation, describing type of final vegetative cover, including the location and type of all vegetated stormwater management measures. Type and quality of mulch and method of anchoring shall be indicated, as well as seeding mixtures, rates, lime and fertilizer application rate for temporary or permanent seeding.
 6. Schedule of anticipated starting and completion date of each land disturbing and land developing activity including the installation of construction site best management practice control measures needed to meet the requirements of this section.
 7. Provisions for maintenance of the construction site best management practice control measures during construction.
- (2) *Content of control plan required.* For land disturbing activities covering less than one acre, but meeting applicability requirements provided in this section of this chapter an erosion control plan statement, with an included map illustrating existing and proposed topography, areas of disturbance and erosion control measures, shall be submitted to briefly describe the site and erosion controls that will be used to meet the requirements of this section.
- (3) *Review of control plan.*
- a. Within 30 days of receipt of the application, control plan, or control plan statement and fee, the city engineer shall review the application and control plan to determine if the requirements of this section are met. The city engineer may request comments from other departments or agencies. If the requirements of this section are met, the city engineer shall approve the plan, inform the applicant and issue a permit upon receipt of the fee payment.
 - b. If the conditions are not met, the city engineer shall inform the applicant in writing and may either require additional information or disapprove the plan. Within 15 days of receipt of needed information, the city engineer shall again determine if the plan meets the requirements of this section. If the plan is disapproved, the city engineer shall inform the applicant in writing of the reasons for the disapproval.

(Code 1957, § 3.17(6); Ord. No. 2004-1117, § I, 12-20-2004)

Sec. 58-677. Permits.

- (a) *Duration.* Permits shall be valid for a period of 180 days, or the length of a building permit, whichever is longer. The city engineer may extend the period one or more times for up to a total of 180 days. The city engineer may require additional control measures as a condition of the extension if they are necessary to ensure compliance with the requirements of this section. If proposed conditions change, and are deemed significant, the city engineer has the authority to declare the permit null and void. The city engineer shall notify the applicant in writing within 15 days of the decision and will request that another permit be submitted with the revised control plan.
- (b) *Drainage financial guarantee.*
 - (1) *Establishment of the guarantee.*

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- a. The city engineer shall require the submittal of a financial guarantee, the form and type of which shall be acceptable to the city.
 - b. The financial guarantee shall give the city the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the city that the requirements of this ordinance have not been met.
 - c. For land disturbing activities listed in section 58-674(c): The financial guarantee shall be in an amount equal to 125 percent of the estimated cost of construction and maintenance of the stormwater management practices, as determined by the city, during the period which the designated party in the maintenance agreement has maintenance responsibility. The applicant shall provide to the city engineer the estimated costs of construction and maintenance which shall be calculated, stamped and signed by a professional engineer registered in the State of Wisconsin.
 - d. For land disturbing activities listed in section 58-674(d): The financial guarantee shall be in the amount listed in the annual fee resolution.
- (2) *Conditions for release.*
- a. The city shall release the portion of the financial guarantee established under this section, less any costs incurred by the city to complete installation of practices, upon submission of a certification in accordance with section 58-678(h). The city may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - b. The city shall release the portion of the financial guarantee established under this section to assure maintenance of BMPs, less 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 [declaration](#) agreement.
- (c) *Permit conditions.*
- (1) Land disturbing activities may not commence until all conditions of the permit and items on the control plan are carried out, inspected and approved by the city engineer.
 - (2) The city engineer must be notified 48 hours prior to commencing land disturbing activities.
 - (3) The city engineer shall be notified after control measures are installed, and prior to land disturbing activities so that he may conduct a field inspection to confirm that all proposed measures are installed according to the control plan. Written authorization to proceed with land disturbing activities must be obtained from the city engineer prior to commencement of construction.
 - (4) Written permission shall be obtained from the city engineer prior to modifying the control plan.
 - (5) All control measures as identified in the approved control plan shall be installed by the applicant.
 - (6) All road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan shall be maintained by the applicant.
 - (7) Any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities shall be repaired by the applicant.
 - (8) Erosion control measures [and limits of disturbance](#) shall be inspected by the applicant, and necessary repairs made after each rain of one-half inches or more and at least once a week.
 - (9) The city engineer, or an agent thereof, shall be allowed to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.
 - (10) A copy of the control plan shall always be kept on site.
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- (11) Upon written notification by the city engineer, the applicant shall remove specified erosion control measures after the site has been deemed stabilized.

(d) *Inspection.*

- (1) The city engineer shall inspect construction sites at least once ~~a month~~ every 45 days for active sites, 60 days for inactive sites, or after a rainfall of one-half inch or more during the period starting March 1 and ending October 31, and at least two times during the period starting November 1 and ending February 28 to ensure compliance with the control plan.
- (2) If land disturbing or land development activities are being carried out without a permit, the city engineer shall have authority to enter the land pursuant to the provisions of Wis. Stats. § 66.0119.

(e) *Enforcement.*

- (1) The city engineer may post a stop work order if:
- Any land disturbing or land developing activity regulated under this section is being undertaken without a permit.
 - The control plan is not being implemented in a good faith manner.
 - The conditions of the permit are not being met.
 - Control measures and limits of disturbance are not being maintained in a good faith manner.
- (2) If the permittee does not cease the activity or comply with the control plan or permit conditions within seven days, the city engineer may revoke the permit.
- (3) If the landowner or land user where no permit has been issued does not cease the activity within seven days, the city engineer may request the city attorney to obtain a cease and desist order.
- (4) The city engineer or board of appeals may retract the stop work order or the revocation.
- (5) Five work days after posting a stop work order, the city engineer may issue a notice of intent to the permittee or landowner or land user of the city engineer's intent to perform work necessary to comply with this section. The city engineer may go on the land and commence the work five working days from issuing the notice of intent. The cost of the work performed by the city engineer, plus interest is to be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Wis. Stats. § 66.60(16).
- (6) Within 18 months of building permit issuance and prior to issuance of the certificate of occupancy, submission of a certification in accordance with section 58-678(h) and acceptance by the city engineer is required.
- ~~(6)(7)~~ Any person violating any of the provisions of this ordinance shall be subject to a forfeiture as provided in chapter 2 of this Code of Ordinances, and the city may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses. Each day a violation exists shall constitute a separate offense. Any financial penalties issued to the City by regulatory bodies due to any person violating the provisions of this ordinance, the person shall be subject to a forfeiture in amount of the financial penalties.

(Code 1957, § 3.17(7); Ord. No. 90-708, 5-8-1990; Ord. No. 2002-1044, § I(A), 6-11-2002; Ord. No. 2004-1117, § I, 12-20-2004; Ord. No. 2015-1453, § III, 7-14-2015; Ord. No. 2022-1625, § III, 8-10-2022)

Sec. 58-706. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the

storm drain system, or water of the U.S. said person, shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least ~~three~~five years. If the spill threatens waters of the state, the spill hotline should be notified at 1-800-943-0003.

(Ord. No. 2004-1117, § I, 12-20-2004)



11333 N. Cedarburg Road
 Mequon, WI 53092-1930
 Phone: 262-236-2913
 Fax: 262-242-9655

www.ci.mequon.wi.us

Office of Public Works

TO: Public Works Committee
FROM: Brian Sajdak, City Attorney
DATE: July 9, 2024
SUBJECT: Invoice Waiver Request - Bill 8201

Background

Mr. Stanford wishes to appeal the fact that his family was billed for damage to City property (a street sign was knocked over) resulting from a traffic accident in which his wife was involved. Per Mr. Stanford, his wife's vehicle was hit by another vehicle which resulted in her vehicle leaving the road surface and striking the road sign. While his request does not specifically specify the basis for the appeal, based upon prior conversations with him it is clear that he believes that they should not have received the bill because his wife was not at fault in the accident. Ultimately, Mr. Stanford is looking to have the invoice amount waived in this appeal.

Analysis

While Mr. Stanford raises a sympathetic position, his suggestion that the other driver should be invoiced is inconsistent with the law. In this case, it was Ms. Stanford's vehicle that hit and damaged the sign. Accordingly, she is the one responsible for the damage. However who ultimately pays for damage is subject to other legal concepts like contributory negligence, contribution and indemnification. Generally, the law relating to automobile liability places the bulk of liability upon the striking vehicle. But contributory negligence might change that. For example, in a two-car crash where one vehicle is turning left in an intersection and hits a car proceeding straight through the intersection, the default analysis would be that the striking vehicle is responsible for the damages sustained. However, that analysis will change depending on a myriad of factors: who had a green/red light, was the straight vehicle speeding, did the straight vehicle have its headlights on and the crash occurred at 1am, etc. Each of these factors might result in the non-striking vehicle having more responsibility for damages caused. The ultimate determination as to who is responsible is a fact-based matter decided by a judge or jury.

The suggestion that the City simply bill the other driver effectively side-steps the entire legal process. This suggestion is effectively asking the City to do is make an independent analysis of the respective responsibilities of the crash, which is not the City's responsibility. Moreover, if the City were to complete such an analysis incorrectly, the taxpayers might be on the hook for the damages instead of the responsible party. Accordingly, the best practice, and the practice utilized by the City, is to bill the party that struck the City's property.

When the City bills the striking party, they are not without recourse. The party billed, if they believe another party is responsible, can seek to recover the amount paid from the part it believes is responsible. That can take the form of an individual suit against the party, but can also be done by adding a party to a lawsuit against them under Wis. Stat. § 803.05 which authorizes adding a party "who is or may be liable to the defending party for all or part of the plaintiff's claim against

the defending party.” Further, the party that is invoiced could submit the invoice to their insurance company for payment. If the insurance company believes another party is at fault they can seek to recover the amount they paid through subrogation.

Recommendation

The City Attorney’s office recommends denying the appeal.

Attachments:

Appeal Bill 8201 (PDF)

Bill 8201 (PDF)

From: Justin Schoenemann jschoenemann@ci.mequon.wi.us
Subject: FW: Bill #8201
Date: July 3, 2024 at 10:01 AM
To: Brian Sajdak (brian@wrslegal.net) brian@wrslegal.net
Cc: Marie Keyser mkeyser@ci.mequon.wi.us, Kristen Lundeen KLundeen@ci.mequon.wi.us

Hello Brian,

Below is Mr. Stanford's formal request to appeal Bill #8201 at the July 9, 2024, Public Works Committee for inclusion in the agenda materials.

Thank You,
 Justin



Justin Schoenemann
 Assistant City Administrator
 City of Mequon
 11333 N. Cedarburg Rd. | Mequon, WI 53092
 262-236-2942 | jschoenemann@ci.mequon.wi.us
[City Website](#) | [Staff Directory](#) | [Bio](#)

From: tim stanford <timmmystanford@gmail.com>
Sent: Wednesday, July 3, 2024 9:48 AM
To: Marie Keyser <mkeyser@ci.mequon.wi.us>
Cc: Justin Schoenemann <jschoenemann@ci.mequon.wi.us>; Gretchen Stanford <gretchen_stanford@yahoo.com>
Subject: Re: Bill #8201

I would like to appeal the charge to Gretchen Stanford for damaging city property.

Regards,
 T.L. Stanford
 414-979-1793

Attachment: Appeal Bill 8201 (9523 : Invoice Waiver Request - Bill 8201)



11333 N. Cedarburg Rd.
Mequon, WI 53092
Phone: (262) 236 2947

4.b.b

Tax ID: 39-6006

CUSTOMER		INVOICE DATE		INVOICE NUMBER		AMOUNT PAID		DUE DATE		INVOICE TOTAL D	
STANFORD, GRETCHEN		04/02/2024		8201		\$0.00		05/02/2024		\$435	
DESCRIPTION		QUANTITY		PRICE	UOM	ORIGINAL BILL		ADJUSTED		PAID	AMOUNT D
Highway Dept Services and Materials DAMAGES TO CITY OF MEQUON SIGN/POLE DUE TO ACCIDENT ON 3/19/2024 CASE #24-7280.		1.00		\$412.860000	EACH	\$412.86		\$0.00		\$0.00	\$412
SALES TAX		1.00		\$22.710000	TAX	\$22.71		\$0.00		\$0.00	\$22
						Invoice Total:			\$435		
INTEREST ON PAST DUE INVOICES ACCRUES AT 1.5% PER MONTH OR ANY PART THEREOF											

Attachment: Bill 8201 (9523 : Invoice Waiver Request - Bill 8201)

✂ DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT ✂



11333 N. Cedarburg Rd.
Mequon, WI 53092
Phone: (262) 236 2947

INVOICE
Remit Por

Invoice Date	04/02/2
Invoice Number	8
Customer Number	4
Amount Paid	
Due Date	05/02/2
Invoice Total Due	\$435

STANFORD, GRETCHEN
5253 W WESTFIELD RD
MEQUON, WI 53092

Please put Invoice Number on your che
Make Checks Payable to: City of Meq

Department of Public Works
REQUEST FOR INVOICE

The following are to be invoiced for work performed and/or materials supplied as follows:

Name: Bretchen Rae Stanford

Address: 5253 W Weasfield Rd

City: Mequon State: WI Zip: 53092

Customer Contact Name: _____ Phone: (414) 979-1715

Item: _____

LABOR

DATE	MAN HOURS	RATE	COST
3/26	2	\$87.00	\$174.00

EQUIPMENT

DATE	EQUIP. #	HOURS	RATE	COST
3/26	204	2	\$16.52	\$33.04

MATERIALS

DATE	ITEM	COST
3/26	12' Galvanized pole	57.52
3/26	2 Road Name Signs (48.65)	97.30
3/26	mounting brackets	31.00

Date: 3/26/2024

Subtotal Amount \$392.86

Approved by: [Signature] 3/26/24

Overhead and Administrative Costs \$20.00

Credit Account # 110000-447401

5.5% Sales Tax on Subtotal \$22.71

Submitted by: R.K.H. h41xh4

Total Invoice \$435.57

CC: City Attorney ☐
PD ☐
Finance ☐
HWY Super ☒

Attachment: Bill 8201 (9523 : Invoice Waiver Request - Bill 8201)



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www.ci.mequon.wi.us

Office of Engineering

TO: Public Works Committee
FROM: Kristen Lundeen, Director of Public Works/City Engineer
DATE: August 14, 2024
SUBJECT: Public Works Work Plan (8.14.24)

Attached for the Board's review is a copy of the proposed work plan for 2024.

Attachments:
2024 Work Plan (8.14.24) (PDF)

Month	Agenda Topics
August	- Ordinance: Stormwater Text Amendment - Resolution: Port Washington Road Streetscape Bid Documents - Appeal Bill No. 8201
October	<i>Tentative:</i> Fiesta Lane Drainage Recap
November	<i>Tentative:</i> Road Program Recap

Future Agenda Topics

- Drainage CIP Prioritization
- Policy language for structures (i.e. Little Free Library) within the building setback
- State/Municipal Maintenance Agreement (SMMA) for various WisDOT projects

2024 Completed Items:

- Resolution: Contract Award for City Hall HVAC Design - Resolution: Contract Award for Vendors Exceeding \$25k for Inspection Services - Resolution: Contract Award for Lift Purchase 2024 Road Program Overview - Resolution: Road Improvements Contract Award - Resolution: Cracksealing Contract Award - Resolution: GSB-88 Contract Award - Resolution: Purchase of a Bat-wing Mower - Resolution: Approval of a Pre-Development Agreement with the Rotary Club of Thiensville-Mequon for Development of an All-User Inclusive Playground at Rotary Park - Resolution: Contract Award for an Update to the Comprehensive Park, Recreation & Open Space Plan	- Resolution: Contract Award for Bikeway Master Plan and MOU with Thiensville for Cost Share of Local Share - Resolution: Bid Rejection for City Hall HVAC - Resolution: MOU with Brown Deer for County Line Road Improvements - Resolution: Median Maintenance Contract Award - Resolution: Truck Chassis Purchase - Resolution: Rejection of CRP Grant and Authorization of We Energies Contract for Mequon Rd Street Lights - Resolution: Award of Design for Brush Site Automated Gate - Community Survey Topics
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