



## Legislation Details (With Text)

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**Title:** An ordinance relating to storm water management regulations.  
**Sponsors:** ALD. BAUMAN  
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Date	Ver.	Action By	Action	Result	Tally
3/29/2016	0	COMMON COUNCIL	ASSIGNED TO		
4/8/2016	0	PUBLIC WORKS COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	3:0
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4/26/2016	0	MAYOR	SIGNED		
5/3/2016	0	CITY CLERK	PUBLISHED		

151776  
ORIGINAL

ALD. BAUMAN

An ordinance relating to storm water management regulations.

120-3-1 am  
120-3-14.5 cr  
120-3-15 rc  
120-3-16.5 cr  
120-3-17.5 cr  
120-4 cr  
120-7-4.5 cr  
120-7-6-a-3 am  
120-7-7 rn  
120-7-7 cr  
120-7-8 cr  
120-9-5-0 am  
120-9-5-e rn  
120-9-5-f rn  
120-9-5-g rn  
120-9-5-e cr  
120-9-5-f cr  
120-9-6-a am  
120-15-1 am

This ordinance amends code provisions relating to storm water management to comply with watershed permit requirements as set forth by the Wisconsin Department of Natural Resources. Whereas, The Wisconsin Department of Natural Resources grants watershed permits, including the Menomonee River Watershed-Based MS4 permit for a municipal separate storm sewer system granted to the City of Milwaukee; and

Whereas, As a condition of the Menomonee River Watershed-Based MS4 permit, the City of Milwaukee is required to adopt updated post-construction storm water management regulations as set forth in ch. NR 151, Wis. Adm. Code; and

Whereas, To comply with both state law and permit requirements, it is necessary to update code provisions relating to storm water management; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 120-3-1 of the code is amended to read:

**120-3. Definitions.**

**1. ADVERSE IMPACT** means any modification, alteration or effect on a feature or a characteristic of a wetland, water of the United States or municipal separated storm sewer system; including quality, quantity, hydrodynamics, surface area or species composition as defined by the Wisconsin department of natural resources; or human ~~[[ornatural]]~~ >>or natural<< use which is or may potentially be harmful or injurious to property, human health, welfare, or safety, or to biological productivity, diversity or stability.

Part 2. Section 120-3-14.5 of the code is created to read:

**14.5. IN-FILL** means an undeveloped area of land located within an existing urban sewer service area surrounded by development, or development and natural or human-made features where development cannot occur.

Part 3. Section 120-3-15 of the code is repealed and recreated to read:

**15. LAND DISTURBING ACTIVITY** means any human-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing activity includes but is not limited to clearing and grubbing, demolishing, excavating, pit trench dewatering, filling and grading activities.

Part 4. Section 120-3-16.5 of the code is created to read:

**16.5. MAXIMUM EXTENT PRACTICABLE** means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this chapter, as determined in accordance with s. 120-4.

Part 5. Section 120-3-17.5 of the code is created to read:

**17.5. NRCS MSE3 or MSE4 PRECIPITATION DISTRIBUTION** means a specific precipitation distribution developed by the U.S. department of agriculture, natural resources conservation service,

using precipitation data from the U.S. department of commerce, national oceanic and atmospheric administration (NOAA) Atlas 14.

Part 6. Section 120-4 of the code is created to read:

**120-4. Applicability of Maximum Extent Practicable.** Maximum extent practicable shall apply when a person who is subject to a performance standard identified in this chapter demonstrates that satisfaction of the performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the person shall take into account the best available technology, cost effectiveness, geographic features and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources and preservation of historic properties.

Part 7. Section 120-7-4.5 of the code is created to read:

**120-7. Control of Storm Water Discharge.**

**4.5. PEAK RUNOFF RELEASE RATE CALCULATIONS.**

- a. Peak runoff release rates shall be calculated using NOAA Atlas 14 precipitation depths and NRCS MSE3 precipitation distribution.
- b. Refer to s. NR 151.123(1), Wis. Adm. Code, for maximum predevelopment runoff curve numbers for developments that include but are not limited to areas like new subdivisions and undeveloped urban areas.

Part 8. Section 120-7-6-a-3 of the code is amended to read:

**6. RUNOFF DISCHARGE QUALITY CONTROL.**

a-3. For in-fill development under 5 acres that occurs within 10 years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff ~~[[management]]~~ >>management<< controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this paragraph.

Part 9. Section 120-7-7 of the code is renumbered 120-7-9.

Part 10. Section 120-7-7 and 8 of the code is created to read:

**7. MAINTENANCE OF EFFORT.** For a redevelopment site where the redevelopment will be replacing an older development that was subject to s. 120-7, the responsible party shall meet the total suspended solids reduction and peak flow control standards applicable to the older development or meet the redevelopment standards of this chapter, whichever is more stringent.

**8. MAXIMUM EXTENT PRACTICABLE.** If a design cannot meet the total suspended solids reduction performance standard of sub. 6, the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.

Part 11. Section 120-9-5-0 of the code is amended to read:

## **120-9. Storm Water Management Plan.**

**5. BEST MANAGEMENT PRACTICES.** The description of the proposed best management practices to be used for the protection of water quality >>and the reduction of water quantity<< shall include:

Part 12. Section 120-9-5-e to g of the code is renumbered 120-9-5-g to i.

Part 13. Section 120-9-5-e and f of the code is created to read:

e. Infiltration practices shall be permitted according to s. NR 151.124, Wis. Adm. Code, provided the person presents evidence of sufficient soil infiltration rates using scientifically credible field test methods to show that the infiltration rates are 0.6 inches per hour or above and the soil profile is not clay.

f. Swale treatment for transportation purposes may be used according to s. NR 151.249, Wis. Adm. Code, provided the transportation facility development does not conflict with the criteria specified in s. 120-7-2. In case of a conflict, the more restrictive criteria of s. 120-7-2 shall be used.

Part 14. Section 120-9-6-a of the code is amended to read:

**6. GUARANTEE.** a. The plan shall also be accompanied by an irrevocable letter of credit, certified check or surety bond to guarantee implementation and completion of storm water management plans. By submitting the guarantee, the person consents to allowing the city to inspect the best management practices constructed to meet requirements of the storm water management plan. After construction of the storm water management facilities has been completed, the person shall submit >>to the city engineer<< a written certification ~~[[from]]~~ >>prepared and stamped by << a registered professional engineer that the facilities have been constructed in accordance with the storm water management plan. ~~[[The person or the registered professional engineer shall submit the certification to the city engineer.]]~~ After the city engineer receives the certification, that portion of the guarantee not utilized under s. 120-17 shall be released or returned.

Part 15. Section 120-15-1 of the code is amended to read:

## **120-15. Maintenance of Drainage Facilities.**

**1.** Every 5 years the person shall submit a written ~~[[certification]]~~ >>recertification for the approved storm water management plan<< from a registered professional engineer that the drainage facility is operating as originally designed along with an updated irrevocable letter of credit, certified check or surety bond or letter of financial guarantee from the person as provided in s. 120-9. By submitting the guarantee, the person consents to allowing the city to inspect the best management practices prescribed in the storm water management plan.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

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Office of the City Attorney

Date: \_\_\_\_\_

Department of Public Works-Environmental Engineering Section

LRB163322-1

Dana J. Zelazny

3/16/2016