

Chapter 13

Surface Water and Stormwater

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Appendix - Streams under District Jurisdiction

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13.01 Purpose

The purpose of this chapter is to:

- (1) reduce the unsafe conditions, property damage, economic losses, and adverse health effects caused by flooding;
- (2) maximize the effectiveness of flood abatement facilities and watercourse improvements;
- (3) reduce the number and magnitude of releases of sewage to the environment from sanitary and combined sewers and to protect sewage collection and treatment facilities from high flows;
- (4) promote comprehensive watershed planning and intergovernmental cooperation; and
- (5) restore and enhance opportunities to use and enjoy watercourses.

13.02 Applicability

This chapter applies to all users of the sewerage system and all governmental units in the sewer service area.

13.03 Definitions

- (1) “Commission” means the governing body of the Milwaukee Metropolitan Sewerage District.
- (2) “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.
- (3) “Department” means the Wisconsin Department of Natural Resources.
- (4) “Development” means the construction of buildings, roads, parking lots, and paved or unpaved storage areas.
- (5) “FEMA” means the Federal Emergency Management Agency.
- (6) “Governmental unit” means any general purpose or special purpose municipal corporation, including any city, village, town, county, or district.
- (7) “Impervious surface” means any pavement or structural element that prevents rain, surface water runoff, or melting snow from infiltrating into the ground below, including, but not limited to, roofs and paved roads, driveways, and parking lots.

- (8) “Non-member” means a municipality that is within the District’s sewer service area but is neither a First-Class City, according to Wis. Stat. sec. 62.05(1)(a), nor represented on the executive council established by Wis. Stat. sec. 200.23(2)(b).
- (9) “Public right of way” means any road, alley, street, parking lot, sidewalk, plaza, mall, or pathway owned by or dedicated to a governmental unit.
- (10) “Recreational trail” means a path that is:
 - (a) distinctly set apart from a roadway, street, or sidewalk;
 - (b) designed for activities such as jogging, walking, hiking, bird-watching, bicycle riding, roller skating, or other recreation not involving the use of motorized vehicles; and
 - (c) not a sidewalk according to sec. 340.01(58), Wis. Stats.
- (11) “Redevelopment” means new development that replaces older development.
- (12) “Regional flood” means the peak flow and peak elevation of water with a 1% probability of occurring during any one year, considering rainfall time and intensity patterns, rainfall duration, area distribution, antecedent moisture, and snow melt.
- (13) “Regional floodplain” means the area of land covered by water during the regional flood.
- (14) “Runoff release rate” means the volume of stormwater flowing off of development per unit of time and area.
- (15) “Runoff management system” means the complete combination of structural and non-structural means used to reduce the rate or volume of runoff from a particular area, including, but not limited to, facilities constructed for conveyance and storage, management practices, and the protection, creation, or restoration of natural areas or systems such as vegetated swales, prairies, and wetlands for storage, conveyance, or infiltration.
- (16) “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.
- (17) “Ultimate sewer service area” means the maximum geographic area that may receive sanitary sewer service from the District within the foreseeable future, as shown in the current facilities plan.

13.04 Watercourse Jurisdiction

- (1) The District may take action to abate the regional flood along the watercourses listed in the appendix.

- (2) District flood abatement action shall be limited to the reduction of regional flood risks.
- (3) District action to abate regional flooding does not modify or eliminate any responsibility of other governmental units for local stormwater management or surface water drainage.
- (4) The listing of a watercourse in the appendix does not, by itself, affect any riparian property interest. Riparian property owners retain all the benefits and burdens of ownership, including the duty to use their property in a manner that does not cause harm to or interfere with the rights of others.

13.05 Adding Watercourses

- (1) Any governmental unit may petition the Commission to take action to abate regional flooding risks along a watercourse not already listed in the appendix.
- (2) The petitioner shall submit its petition to the Secretary of the Commission.
- (3) A petition shall identify:
 - (a) the features that create a risk of flood losses,
 - (b) the constructed features that create a risk of flood losses and the related owners or operators,
 - (c) the extent and magnitude of probable flood losses,
 - (d) the actions that would reduce flood losses, and
 - (e) an explanation for why regional action is necessary.
- (4) To add a watercourse, the District shall use procedures for rule-making, according to sec. 200.45(1), Wis. Stats.
- (5) If the Commission fails to act on a petition within one year of submission, then the petition is denied.

13.06 Flood Abatement Projects

- (1) When planning, designing, and constructing flood abatement projects, the District shall include features or use techniques that restore stream habitat, improve water quality, protect wetlands, and enhance public access to and use of watercourses, to the maximum extent practical.

- (2) The District shall utilize non-structural flood abatement techniques, such as conservation easements, whenever practical. The District shall manage conservation easements according to land trust practices.
- (3) The District may straighten a channel, line a channel with an impervious material, or take other activities that merely accelerate flow rates only if no feasible alternative exists.
- (4) The District may not provide direct flood abatement services, such as the purchase of real property, to any property altered, built, or modified in a way that violates floodplain or shoreland zoning requirements, including pre-existing property allowed to continue as a nonconforming use. This prohibition does not apply to properties that are already included in projects planned by the District as of the date of adoption of this chapter.
- (5) Specific requirements in a Commission resolution related to a particular project supersede the requirements of subs. (1) to (4).
- (6) District action to improve a watercourse's bed or banks does not, by itself, create for the District an ownership interest in the bed or banks.

13.07 Watercourse Maintenance when Riparian Land is not Owned by the District

- (1) The provisions of this section apply when riparian land is not owned by the District.
- (2) District watercourse maintenance work shall be limited to watercourses listed in the appendix.
- (3) The District shall limit its work to preventing harm from structures constructed or installed by the District and the removal of obstructions that create a threat of harm to structures, unless other work is explicitly authorized by the Commission or is specifically required by a recorded easement; a permit issued by the Department according to Chapter 30, Wis. Stats; a grant agreement; an intergovernmental cooperation agreement established according to sec. 66.0301, Wis. Stats; or an agreement with a donor of land.
- (4) The District may remove an obstruction only if all of the following conditions are satisfied:
 - (a) The riparian owner requests removal,
 - (b) The obstruction would cause the regional flood to damage structures, and
 - (c) The riparian owner does not:
 1. impose unreasonable restrictions upon the manner or timing of the District's work,
 2. impose access fees, or

3. require a permit, bond, or insurance.

- (5) If an obstruction in a watercourse creates an imminent and substantial endangerment to public safety, then the District may order the riparian owner to remove the obstruction or take other emergency action to eliminate the risk to public safety. The order shall be written, state the reasons for the order, describe the administrative procedures that are available to request modification or reversal of the order, and be hand delivered or delivered by certified mail, return receipt requested. If the recipient requests an administrative review of the order according to sec. 13.20, then the District shall undertake the review within the shortest reasonable time. If the riparian owner fails to remove the obstruction, then the District may remove the obstruction without regard for any requirements established by the riparian owner. If the District removes the obstruction, then the riparian owner shall reimburse the District's costs.
- (6) Whenever practical, the District shall use maintenance techniques that minimize adverse effects upon fish or wildlife habitat.

13.08 Cost Sharing for the Maintenance of Dual Use Flood Abatement Facilities

- (1) If a facility constructed for regional flood abatement also provides other functions, such as sports fields, picnic areas, other public park amenities, or best management practices for stormwater quality, then the District and the governmental unit where the facility is located shall establish a maintenance cost sharing agreement. According to this agreement, the District may reimburse a portion of the governmental unit's maintenance costs.
- (2) Governmental units are responsible for all costs unrelated to flood abatement, including, but not limited to:
- (a) the design, construction, maintenance, or repair of recreational facilities, restrooms, fencing, board walks, trails, lighting, play grounds, turf, landscaping, and signage regarding access restrictions or hazards, including the cleaning, repairing, and restoration of these features after flooding;
 - (b) snow removal, mosquito control, grass cutting, landscaping maintenance, litter or debris removal for aesthetic purposes, and any other tasks incidental to or necessary for the maintenance of public land or a public right of way; and
 - (c) all costs related to storms with a recurrence interval of 2 years or less and a probability of 50% or more, including costs for removing debris and sediment from basins and other costs related to best management practices for improving stormwater quality.
- (3) The District's share of costs shall be limited to: maintaining the structural integrity and operational effectiveness of the berms, retaining walls, or other facilities constructed by the

District to abate the regional flood; removing debris deposited by floods caused by storms with a recurrence interval of more than 2 years and a probability of less than 50%; and removing obstructions to inlet or outlet structures.

- (4) The District shall share only direct actual costs. The District may not share in the general operating expenses of governmental units, such as overhead or administrative costs.
- (5)
 - (a) Governmental units shall pay a minimum of 60% of the total maintenance costs, with the District paying the remainder, except as otherwise provided by par. (b).
 - (b) A governmental unit may petition the Commission for the District to pay a larger fraction of the cost. The petition shall include facts and arguments showing that costs related to regional flood abatement comprise more than 40% of the total maintenance costs. The petitioner has the burden of persuasion regarding the proposed alternative cost allocation.
- (6) Cost sharing agreements shall use multi-year cost averaging principles, as established for this purpose by the District.

13.09 District Recreational Immunity at Dual Use Flood Abatement Facilities

- (1) For the purposes of this section, “recreational activity” has the meaning established by sec. 895.52, Wis. Stats.
- (2) If an owner, lessee, co-tenant, or occupant of a flood abatement facility constructed according to this chapter imposes a fee for a recreational activity occurring at the facility and if the District does not receive any portion of this fee, then:
 - (a) any person claiming injury from a recreational activity at the facility may not attribute the fee to the District; and
 - (b) the owner, lessee, co-tenant, or occupant shall indemnify the District and hold the District harmless from all claims or liability arising from the activity, except for claims of malicious acts committed solely by the District.
- (3) Any written agreement with the District regarding the use of a facility shall incorporate the requirements of sub. (2).

13.10 Applicability of Runoff Management Requirements

- (1) Type of governmental unit

The following types of governmental units are required to implement the runoff management requirements of this chapter:

- (a) cities,
- (b) villages, and
- (c) any other governmental unit, including counties, special districts, and state agencies, if the governmental unit asserts exemption from local land development requirements and receives sewer service from the District.

(2) Characteristics requiring runoff management

Runoff management is required for any development or redevelopment that meets all of the following criteria, except as provided in subs. (3) to (9).

(a) Location

The development or redevelopment is within the ultimate sewer service area.

(b) Local approval

The development or redevelopment receives full and final approval from a governmental unit after the effective date of the applicable District requirements for all details relevant to runoff management.

(c) Affected area

1. The development or redevelopment involves an increase of one-half acre or more of impervious surface, porous pavement, or vegetated roof; or
2. Demolition or construction during redevelopment will disturb an area larger than 2 acres.

(3) Riparian land

Runoff management is not required for sites riparian to the following watercourses:

- (a) Lake Michigan;
- (b) the Kinnickinnic River, downstream of Chase Avenue;
- (c) the Menomonee River, downstream of 27th Street; or
- (d) the Milwaukee River, downstream of North Avenue.

(4) Minimal impervious area

Runoff management is not required if the area of impervious surface after development or redevelopment will be 5% or less of the total area of the site.

(5) Previously approved projects

Runoff management is not required if:

- (a) a governmental unit approved a development or redevelopment before the effective date of the applicable requirements and
- (b) this approval had sufficient finality to create a vested right to proceed with the development.

(6) Recreational trails

Runoff management is not required for recreational trails if:

- (a) the trail is less than or equal to 10 feet in width and
- (b) has a continuous pervious buffer at least 5 feet wide on each side, disregarding interruption by streets, driveways, or other impervious surfaces crossing the trail.

(7) Residential infill

Runoff management is not required if:

- (a) The site is five acres or less;
- (b) The development is exclusively residential;
- (c) The net increase in the area of impervious surface is less than 20% of the area of the site; and
- (d) Each boundary of the site is contiguous to:
 - 1. sites that contain earlier development served by sanitary sewers, streets, or public water supply when the governmental unit receives the plans for the new development; or
 - 2. parkland, other public land, a utility right-of-way, or a watercourse.

(8) Road construction

If the construction or reconstruction of a public road will increase impervious surface by one-half acre or more, then runoff management is necessary for the net increase in impervious surface. The requirements of sec. 13.11(2)(a) shall apply. Runoff management is not required for the reconstruction of public roads when the area of impervious surface is not changing.

(9) Parking lots

Runoff management is required for the reconstruction of parking lots only when the parking lot will be reconfigured or re-contoured. Runoff management requirements do not apply to pavement maintenance activities, such as sealing, milling and overlaying, or pulverizing and compacting.

13.11 Runoff Management Requirements

(1) Governmental units shall manage the volume, timing, and peak flow rate of runoff from development or redevelopment approved by a governmental unit after the effective date of this chapter. Governmental units may implement runoff management requirements on a watershed basis or at individual sites.

(2) (a) For development, runoff management shall prevent increases in the regional flood and stream bank erosion rates.

(b) If demolition or construction during redevelopment will disturb an area larger than 2 acres, then governmental units shall reduce the runoff release rate by the amount listed in the following table for the 1%/100-year and 50%/2-year storms, except as provided in sub. (5).

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

(c) If redevelopment will add one-half acre or more of impervious surface, then the requirements of par. (a) apply, rather than par. (b).

(3) Governmental units may prepare a watershed or sub-watershed stormwater management plan or a local stormwater management plan for multiple sites considered together. These analyses shall show how runoff volume is distributed over the critical time of the watershed sufficient to comply with sub. (2). Governmental units shall analyze runoff and determine the critical time according to guidance provided by the District. When evaluating how a development will affect the watercourses, governmental units shall use models and

conditions approved by the District. Governmental units shall use 2020 or later land use conditions. Governmental units shall use pre-project channel conditions. Governmental units shall submit these plans and analyses to the District for review and approval.

- (4) In the absence of an approved watershed management plan that covers development at a particular site, governmental units shall implement either site-specific maximum runoff release rates that will distribute runoff over the critical time sufficient to comply with sub. (2)(a), calculated according to guidance provided by the District, or the following uniform rates:

Storm (probability/recurrence interval)	Maximum Runoff Release Rate (cubic feet per second per acre)
1%/100-year	0.5
50%/2-year	0.15

- (5) Redevelopment may reduce the runoff release rate by an amount less than required by sub. (2)(b) when conditions make compliance unreasonable. Relevant conditions include, but are not limited to: soil contamination, groundwater contamination, land use requirements, land availability, opportunities for off-site management, construction delays, marginal costs, and the availability of financing. In this case, redevelopment shall achieve the greatest practicable reduction.
- (6) When selecting the runoff management techniques appropriate for a particular development, governmental units shall consider the following techniques, in order of preference:
- (a) preservation of the natural features of development sites, including natural storage and infiltration characteristics;
 - (b) preservation of existing natural streams, channels, and drainage ways;
 - (c) minimization of new impervious surfaces;
 - (d) conveyance of stormwater in open vegetated channels;
 - (e) construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites; and
 - (f) construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.
- (7) If a governmental unit has established maximum runoff release rates before the date of adoption of this chapter and if those rates are more stringent than the rates in this section, then the governmental unit may either continue to implement its rates or implement the requirements of this section.

- (8) If impervious surface is removed after the effective date of this chapter, then governmental units may reduce the degree of runoff management necessary for new impervious surface within the same watershed or sub-watershed, to the extent that the net result complies with sub. (2). Governmental units shall implement this subsection according to guidance provided by the District.
- (9) Runoff management systems may be either public or private.
- (10) Governmental units shall ensure that facilities constructed to manage runoff are maintained to preserve their effectiveness.
- (11) If a runoff management system is not constructed or maintained according to an approved site development stormwater management plan or otherwise fails to comply with sub. (1), then the governmental unit shall construct new facilities, expand or correct previously constructed facilities, or implement other remedial action.
- (12) Within 180 days after adoption or amendment of this section, cities and villages shall have in effect a stormwater management ordinance that implements this section. Within 30 days after adopting or amending the ordinance, cities and villages shall provide a copy of the ordinance to the District. After adoption, cities and villages shall effectively implement and enforce their stormwater management ordinances.

13.12 Site Development Stormwater Management Plans

- (1) For all development or redevelopment subject to sec. 13.10, the governmental units listed in sec. 13.10(1) shall submit site development stormwater management plans to the District.
- (2) Site development stormwater management plans are due within 30 days after all relevant design decisions are complete and the governmental unit has concluded that the development or redevelopment meets all local requirements.
- (3) Site development stormwater management plans shall include sufficient information to allow the District to independently evaluate compliance with sec. 13.11. The plan shall:
 - (a) describe the site, including maps showing relevant features;
 - (b) describe the proposed stormwater conveyance system;
 - (c) provide data relevant to conveyance system analysis and design;
 - (d) if the site will have a site-specific runoff management system or if the site will be the first user of a runoff management system for multiple sites, then provide drawings, design details, design calculations, construction schedule, and a technical analysis showing compliance with sec. 13.11(2);

- (e) if the site will be tributary to an existing runoff management system for multiple sites, then discuss the location, design, and the available capacity;
 - (f) if the site is in a watershed covered by a watershed stormwater management plan that complies with this chapter, then provide a technical analysis showing that the proposed runoff management system is consistent with the watershed stormwater management plan;
 - (g) discuss runoff management system operation, inspection, and maintenance requirements and discuss who will be responsible for these activities;
 - (h) describe any loss of natural storage or infiltration;
 - (i) any other information required by guidance provided by the District.
- (4) For phased developments, the site development stormwater management plan shall consider the cumulative effect of all phases. A stormwater management plan is required if the cumulative amount of new impervious surface is one-half acre or more, even if the individual components of a development each create less than one-half acre of impervious surface.
- (5) If the governmental unit is implementing reduced runoff management requirements in response to the removal of impervious surface at another site, according to sec. 13.11(8), then the site development stormwater management plan shall include technical analyses showing that the proposed action complies with sec. 13.11(2).
- (6) The District may hold site development stormwater management plan approvals in abeyance for any governmental unit subject to enforcement action under Chapter 2, MMSD Rules, *Planning Design, and Construction of Sewers and Ancillary Facilities*, or Chapter 3, MMSD Rules, *Management, Operations, and Maintenance of Tributary Sewers*.
- (7) During the review of site development stormwater management plans, the District shall consider only issues directly related to stormwater management. For activities outside of the regional floodplain, the District may not consider other land use, development, redevelopment, or zoning issues.
- (8) A site development stormwater management plan is approved if the District has not taken any of the following actions within 10 District work days after receiving the plan: provided notice of disapproval, requested additional information, or provided notice of a need for additional time to review the plan. The maximum additional time for review shall be 20 District work days. A site development stormwater management plan is approved if the District has not disapproved the plan within 20 District work days after either the date when complete additional information is received or the date of a notice of a need for additional time for review.
- (9) Site development stormwater management plans may consider the reduction to runoff release rates provided by low impact development components as described in District guidance,

including, but not limited to, vegetated roofs, porous pavement, rain gardens, and rain barrels.

- (10) If a change in a site development stormwater management plan approved by the District would increase runoff release rates for the 1%/100 year or 50%/2-year storms, then governmental units shall re-submit the materials required by sub. (3), along with information describing the reason for the change.

13.13 Annual Reports

- (1) On or before April 30 of each year, cities and villages shall submit an annual report. The report shall contain information for the preceding calendar year for activities within the watersheds of the watercourses listed in the appendix. The report shall organize the information by watershed. The report shall include:
- (a) a copy of the annual report submitted to the department according to the governmental unit's WPDES stormwater permit;
 - (b) runoff management system inspection and maintenance activities and a discussion of how completed activities compare to the plans provided according to sec 13.12(3)(g);
 - (c) a summary of foreseeable major developments;
 - (d) a summary of completed and proposed projects that have increased or will increase the diameter of a storm sewer, where the final diameter is greater than 36 inches, and any other projects that have significantly increased or will significantly increase the capacity of stormwater conveyance systems or outfalls, not including maintenance of drainage ditches or culvert replacements where the new culvert has substantially the same capacity as the old culvert;
 - (e) the status of any watershed stormwater management planning being undertaken jointly with other governmental units;
 - (f) a discussion of any foreseeable plans to reduce runoff management requirements for new impervious surface in response to the removal of impervious surface at other sites; and
 - (g) any other information requested by the District or the governmental unit finds necessary to describe activities affecting runoff volume and peak flow.
- (2) Annual reports shall use forms provided or approved by the District.

13.14 Rainfall Data

- (1) When this chapter requires the calculation of runoff, governmental units shall use the most recent rainfall depths identified by the Southeastern Wisconsin Regional Planning Commission.
- (2) The District may approve the use of proposed alternative depths if a governmental unit submits information showing that the proposed alternative depths are more protective than the depths obtained according to sub. (1) and the governmental unit has adopted the alternative depths in its stormwater management ordinance.
- (3) In the ordinance required by 13.11(9), Governmental units shall implement the rainfall depths of sub. (1) or alternative depths approved according to sub. (2).

13.15 Notice of FEMA Map Revisions

Governmental units shall inform the District and provide copies of correspondence regarding any action to revise any FEMA map, including, but not limited to, single residential lot or structure removal from special flood hazard areas, variances, letters of map amendment of any type, changes to base flood elevations, or changes to regional floodplain boundaries, except for actions within the Fox River watershed.

13.16 Notice of Floodplain Zoning Changes

Every governmental unit shall provide to the District notices of petitions to revise floodplain zoning areas or to obtain floodplain variances or floodplain special use permits, except for petitions related to actions within the Fox River watershed. Governmental units shall allow the District to have a meaningful opportunity to be heard regarding whether the proposed action is consistent with this chapter.

13.17 Outfalls and Stormwater Conveyance Systems

- (1) Governmental units shall design and construct stormwater conveyance systems, stormwater conveyance system upgrades, and stormwater outfalls to prevent any:
 - (a) reduction in the level of protection provided by any flood abatement project implemented by the District and
 - (b) increase in the regional flood.
- (2) The District shall develop guidance indicating how it will evaluate compliance with this section.

- (3) If the District finds that the individual or cumulative effect of new or upgraded stormwater conveyance systems constructed after July 1, 2002 violates sub. (1), then the District may order governmental units within the watershed to comply, according to sec. 200.45(2), Wis. Stats.

13.18 Obstruction Prevention

- (1) Governmental units shall manage the land they own or maintain and shall manage their public rights of way to prevent debris and sediment from creating obstructions at storm sewer outfalls or stormwater drainage structures that discharge to the watercourses listed in the appendix.
- (2) Governmental units shall remove any debris or sediment that obstructs any storm sewer outfall or stormwater drainage structure that discharges to a watercourse listed in the appendix.
- (3) The District shall develop and make available to governmental units guidance regarding obstruction prevention.

13.19 Enforcement

- (1) The District may take any action authorized by law to enforce the requirements of this chapter. District action is not limited to the actions listed in this section. The District may take any combination of actions in any sequence, without regard for the order in which actions are listed in this section.
- (2) The District may request records from any governmental unit whenever necessary for evaluating compliance with this chapter. The governmental unit shall provide these records without cost to the District.
- (3) The Executive Director, a Commissioner, the chair of any committee established by the Commission, or the decision-maker at a hearing under sec. 6.05 may issue a subpoena for the attendance of a witness at a hearing or for the production of documents. The subpoena shall be in a form substantially equivalent to sec. 885.02, Wis. Stats., and shall be served according to sec. 885.03, Wis. Stats.
- (4) The District may issue notices of violation and requests for remedial action. This notice shall describe the facts that have caused the District to find that a governmental unit has violated the requirements of this chapter. This notice shall require the submission of a remedial action plan and schedule or other appropriate action.
- (5) The Commission may issue a special order according to sec. 200.45(2), Wis. Stats., or a notice of claim according to sec. 893.80, Wis. Stats., or both. When taking these actions, the

order or notice shall describe the nature of the violation and the remedial action the governmental unit must take. The Commission may also request the payment of penalties.

- (6) In a request for remedial action, special order, or notice of claim, the District may require an audit of land development and stormwater management activities. The purpose of the audit would be to identify and disclose past violations and identify the actions that would achieve compliance. The District may accept an audit report only if the governmental unit does not assert any privileges that would limit disclosure of the contents of the report. These privileges include, but are not limited to, attorney-client and attorney work product.
- (7) The District may commence civil litigation to: obtain penalties for past violation to the extent authorized by 200.45, Wis. Stats; obtain injunctions against future violations; abate a public nuisance; or obtain any other remedy authorized by law.
- (8) The District may withhold sewer system improvements that would benefit a governmental unit that is violating this chapter. This action may include: stopping work on facilities under construction; stopping the design of facilities recommended by a facilities plan; deferring planning for sewerage system capacity expansion or relief; or placing a moratorium on requests for approval of sewer connections or service area expansions, according to chs. 2 or 7, MMSD Rules.

13.20 [Reserved]

13.21 District Immunity

This chapter does not guarantee any particular level of protection to property, health, or environmental quality. Nothing in this chapter waives any common law or statutory immunity protecting the District against liability for its action or inaction.

13.22 State Requirements

In addition to complying with the requirements of this chapter, persons or governmental units taking action affecting the waters of the state shall comply with the requirements of the public trust doctrine, the public trust servitude, the requirements of Chapter 30, Wis. Stats., and any other applicable requirements established by the Department. If requirements conflict, then the requirements of the Department supersede any requirement of this chapter.

13.23 Watercourse Connections

- (1) Before the commencement of construction of any connection to a watercourse listed in the appendix, a governmental unit shall submit to the District design computations, local

stormwater conveyance system plans consistent with sec. 2.302, construction plans and specifications consistent with sec. 2.303, and connection plans consistent with sec. 2.304.

- (2) To approve a connection to a watercourse, the District shall issue a connection permit, which may include any specific requirements necessary to ensure structural integrity, ease of maintenance, prevention of erosion, non-interference with flow, or other conditions that promote effective and efficient operation.

Chapter 13 Appendix Streams under District Jurisdiction

Table 1 Kinnickinnic River and Tributaries

Streams Under District Jurisdiction				
Watercourse	Municipalities in Watershed	Upstream Terminus	Downstream Terminus	Length (miles) -approximate-
Lyons Creek	Greenfield Milwaukee	W. Forest Home Avenue and W. Morgan Avenue	Kinnickinnic River, at S. 58 th Street and Kinnickinnic River Parkway	1.2
Wilson Park Creek	Cudahy Greenfield Milwaukee Saint Francis	S. Whitnall Avenue, south of S. Nicholson Road	Kinnickinnic River, near S. 30 th Street and W. Manitoba Avenue	6.1
Villa Mann Creek, main Stem	Greenfield Milwaukee	I-894, east of S. 27 th Street	Wilson Park Creek, near S. 20 th Street and W. Plainfield Avenue	0.8
Villa Mann Creek, tributary	Greenfield Milwaukee	W. Colony Drive, east of S. 35 th Street	Villa Mann Creek, east of S. 27 th Street	0.7
43 rd Street Ditch	Milwaukee West Milwaukee	W. Rogers Street and S. 50 th Street extended	Kinnickinnic River, near S. 43 rd Street and the railroad bridge	1.0
Kinnickinnic River, main stem	Cudahy Greenfield Milwaukee Saint Francis West Milwaukee	S. 58 th Street and Kinnickinnic River Parkway	W. Becher Street	6.4
Kinnickinnic River Estuary, lake dominated portion	Milwaukee	W. Becher Street	Milwaukee River	1.7

Chapter 13 Appendix

Table 2
Lake Michigan Drainage Area

Streams Under District Jurisdiction				
Watercourse	Municipalities in Watershed	Upstream Terminus	Downstream Terminus	Length (miles) -approximate-
Fish Creek, main stem	Bayside Mequon River Hills	W. County Line Road, east of I-43	Lake Michigan, north of the Milwaukee County/Ozaukee County border	2.2
Fish Creek, tributary	Bayside Mequon River Hills	W. County Line Road, near Columbia Court	Fish Creek at I-43	0.5

Chapter 13 Appendix

Table 3 Menomonee River and Tributaries

Streams Under District Jurisdiction				
Watercourse	Municipalities in Watershed	Upstream Terminus	Downstream Terminus	Length (miles) -approximate-
Grantosa Creek, upper reach	Milwaukee Wauwatosa	W. Hampton Avenue, east of N 100 th Street	N. 100 th Street, north of W. Glendale Avenue	0.8
Grantosa Creek, lower reach	Milwaukee Wauwatosa	W. Grantosa Drive at N. 100 th Street	Menomonee River, east of N. Mayfair Road, south of N. Menomonee River Parkway	0.3
Honey Creek	Greenfield Milwaukee Wauwatosa West Allis	S. 43 rd Street near W. Edgerton Avenue	Menomonee River, near W. Honey Creek Parkway and N. 72 nd Street	8.8
Little Menomonee River	Germantown Mequon Milwaukee	Border of Milwaukee and Ozaukee Counties at W. County Line Road, east of N. 107 th Street	Menomonee River, near W. Hampton Avenue and N. Mayfair Road	6.9
Menomonee River, main stem	Brookfield Butler Elm Grove Germantown Greendale Greenfield Menomonee Falls Mequon Milwaukee New Berlin Wauwatosa West Milwaukee	Border of Milwaukee and Waukesha Counties, south of US-45	W. Canal Street	16.3
Menomonee River, Burnham Canal*	Milwaukee	S. 15 th Street, extended	South Menomonee Canal	0.6
Menomonee River, South Menomonee Canal*	Milwaukee	S. 13 th Street, extended	Menomonee River	0.9
Menomonee River Estuary, lake dominated portion*	Milwaukee	W. Canal Street	Milwaukee River	1.9

*The District will not charge non-member municipalities for capital or operation and maintenance costs related to these watercourses because Lake Michigan dominates flood elevations, rather than tributary river flows.

Table 3 (Continued)
Menomonee River and Tributaries

Streams Under District Jurisdiction				
Watercourse	Municipalities in Watershed	Upstream Terminus	Downstream Terminus	Length (miles) -approximate-
Schoonmaker Creek	Milwaukee Wauwatosa	W. Lloyd Street at N. 66 th Street	Menomonee River, near N. 62 nd Street	1.1
Underwood Creek, main stem	Brookfield Elm Grove Milwaukee New Berlin Wauwatosa West Allis	Border of Milwaukee and Waukesha Counties, north of W. Blue Mound Road	Menomonee River, near W. North Avenue and N. Menomonee River Parkway	2.6
Underwood Creek, South Branch	Brookfield Elm Grove Milwaukee New Berlin Wauwatosa West Allis	W. Greenfield Avenue, west of S. 116 th Street	Underwood Creek, main stem, north of W. Blue Mound Road, west of Underwood Creek Parkway	1.0
Woods Creek	Milwaukee West Allis West Milwaukee	S. 56 th Street, north of W. Walker Avenue	Menomonee River, near S. 44 th Street	1.1

Chapter 13 Appendix

Table 4 Milwaukee River and Tributaries

Streams Under District Jurisdiction				
Watercourse	Municipalities in Watershed	Upstream Terminus	Downstream Terminus	Length (miles) -approximate-
Beaver Creek	Brown Deer Mequon Milwaukee	N. 64 th Street, south of W. Brown Deer Road	Milwaukee River, east of N. Green Bay Road and N. Deerwood Drive, extended	1.9
Brown Deer Park Creek	Brown Deer Glendale Milwaukee River Hills	W. Good Hope Road, 0.5 mile west of N. Range Line Road	Milwaukee River, east of N. Range Line Road	1.9
Indian Creek	Bayside Fox Point Glendale River Hills	N. Manor Lane, north of N. Indian Creek Parkway	Milwaukee River, south of W. Bradley Road	2.3
Lincoln Creek	Brown Deer Glendale Milwaukee	Railroad culvert east of N. 60 th Street, north of W. Hemlock Street	Milwaukee River, near N. Green Bay Road and W. Lawn Avenue	8.1
Milwaukee River, main stem	Bayside Fox Point Glendale Mequon Milwaukee River Hills Shorewood Thiensville Whitefish Bay	Border of Milwaukee and Ozaukee Counties, at W. County Line Road, east of N. Green Bay Road	N. Humboldt Avenue	13.1
Milwaukee River Estuary, lake dominated portion*	Milwaukee	N. Humboldt Avenue	Lake Michigan	3.0
Southbranch Creek	Brown Deer Milwaukee River Hills	W. Bradley Road and N. Edgeworth Drive	Milwaukee River, east of N. Green Bay Road and N. Teutonia Avenue	1.5

*The District will not charge non-member municipalities for capital or operation and maintenance costs related to this watercourse because Lake Michigan dominates flood elevations, rather than tributary river flows.

Chapter 13 Appendix

Table 5
Oak Creek and Tributaries

Streams Under District Jurisdiction				
Watercourse	Municipalities in Watershed	Upstream Terminus	Downstream Terminus	Length (miles) -approximate-
Mitchell Field Ditch	Cudahy Milwaukee Oak Creek	S. Howell Avenue and E. Citation Way	Oak Creek, main stem, in Clement Avenue Park, east of the railroad tracks	3.3
Oak Creek, main stem	Cudahy Franklin Greenfield Milwaukee Oak Creek South Milwaukee	W. Southland Drive	S. Pennsylvania Avenue, north of Manitowoc Avenue	8.4
Oak Creek, north branch	Greenfield Milwaukee Oak Creek	Culvert under the most southerly crossing of the Airport Spur Freeway	Oak Creek, main stem, near W. Ryan Road, west of S. Howell Avenue	5.7

Chapter 13 Appendix Table 6 Root River and Tributaries

Streams Under District Jurisdiction				
Watercourse	Municipalities in Watershed	Upstream Terminus	Downstream Terminus	Length (miles) -approximate-
Crayfish Creek, main stem	Oak Creek	E. Elm Road, 0.5 mile east of S. Nicholson Road	County Line Road, 0.5 mile east of S. Nicholson Road	0.5
Hale Creek	West Allis	W. Lincoln Avenue, West of State Highway 100	Root River, North Branch, near W. Montana Avenue	1.3
Lower Crayfish Creek, main stem	Oak Creek	S. 14 th Street, extended, north of County Line Road	County Line Road, 0.5 mile east of S. Nicholson Road	0.4
Root River, 104 th Street Branch	Greenfield Milwaukee	West of 99 th Street, north of W. Cold Spring Road	Root River, North Branch, south of W. Cold Spring Road	0.5
Root River, East Branch	Franklin Greendale Greenfield Milwaukee Oak Creek	S. Melinda Street, south of W. Parnell Avenue	Root River, North Branch, west of S. 60 th Street and W. Cascade Drive	5.2
Root River, North Branch	Franklin Greendale Greenfield Hales Corners Milwaukee Muskego New Berlin Oak Creek West Allis	S. Root River Parkway and W. Lincoln Avenue	S. 60 th Street, south of W. Oakwood Road	13.2
Root River, West Branch	New Berlin West Allis	S. 124 th Street, south of W. Cleveland Avenue	Root River, North Branch, South of W. National Avenue	1.0
Tess Corners Creek	Franklin Greendale Muskego New Berlin	0.5 mile southwest of W. Rawson Avenue and S. Lovers Lane	Root River, North Branch, near W. College Avenue and S. Root River Parkway	2.2
Whitnall Park Creek	Franklin Greenfield Hales Corners Muskego New Berlin	W. Edgerton Avenue and S. 113 th Street	Tess Corners Creek, near S. 92 nd Street and W. College Avenue	2.7