

Summary Publication

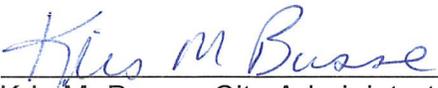
City of Owatonna
ORDINANCE 1638

STORMWATER UPDATES

On September 20, 2022, the Owatonna City Council adopted Ordinance 1638 to amend the City's 2015 Code of Ordinance regarding stormwater. Changes include amendments to: amend Chapter 90, to include all public property for removal of Animal Debris and amend Chapter 52 with updates regarding Chloride, Stormwater Utility Fee, Construction Site Run-off, and Post Construction Controls. A printed copy of the full ordinance is available for inspection during regular business hours at City Hall located at 540 West Hills Circle and available on the City's website.

First Reading: September 6, 2022
Second Reading: September 20, 2022
Publication Date: September 29, 2022
Effective Date: October 1, 2022 (new ERU becomes effective January 1, 2023)

Date: September 20, 2022

By: 
Kris M. Busse, City Administrator/City Clerk

Print

Owatonna, MN Code of Ordinances

CHAPTER 52: STORM WATER

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Cross-reference:

Fee Schedule, see Ch. 35, App. A

Industrial Wastewater Pretreatment, see Ch. 51

Sewers; Domestic and Industrial Wastewater, see Ch. 50

Utility Installers and Contractors; Public Works, see Ch. 117

STORM WATER UTILITY

§ 52.01 GENERAL OPERATION.

The city storm water system shall be operated as a public utility (hereinafter, called the “Storm Water Utility”), pursuant to Minn. Stat. § 444.075, as it may be amended from time to time, from which revenues will be derived subject to the provisions of this subchapter and state statutes.

(1992 Code, § 280:00) (Ord. 1187, passed 7-7-1998)

§ 52.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EQUIVALENT RESIDENTIAL UNIT (ERU). ERU are based on the effect of a typical single family residential home’s impervious area footprint. The ERU is based on one-third acre.

MONTHLY STORM WATER UTILITY REVENUE. The estimated monthly expenditures for planning and inventories, capital expenditures, personnel and equipment and operation of the storm water utility, in accordance with established city policy.

STORM WATER UTILITY FEE. The annual charge developed for each parcel of land.

UTILITY FACTOR. The ratio of run-off volume, in inches, for a particular land use, to the run-off volume, in inches, for an average single-family residence, assuming a two-inch rainfall and Natural Resources Conservation Services (NRCS) “Type B” soil conditions.

(1992 Code, § 280:05) (Ord. 1187, passed 7-7-1998; Ord. 1527, passed 8-18-2015)

§ 52.03 STORM WATER UTILITY FACTORS.

(A) The storm water management fee shall be determined by first determining the percentage of total run-off in the city which is attributed to single-family residential

property. The fee per acre for single-family residential is computed by computing the product of the run-off percentage and the monthly storm water utility revenue, divided by the estimated total acres of single-family residential land use in the city. The per acre fee for all other individual parcels shall be defined as the product of the single-family residential per-acre fee, the appropriate utility factor and the total acreage of the parcel. Single-family residential parcels shall be assessed on a per household basis. All multi-family residential, townhome, and mobile home classifications with individual meters shall be billed at 80% of the current ERU. All multi-family residential, townhome, and mobile home classifications without individual meters shall be billed based on the above equation, derived from the table below.

Classification	Land Use	Intensity Factor	% Impervious Assumed
	Single family residential	1	
2	Townhomes	0.8	
3	Multi-family residential	1.5	
4	Low-density commercial	2.0	60%
5	High-density commercial	2.8	85%
6	Low-density industrial	2.1	63%
7	High-density industrial	2.4	72%
8	Mobile homes	1.5	45%
9	Churches/institutions/schools	2.4	72%

(B) The city will regularly review classifications of parcels and make adjustments to individual parcel classifications as necessary.

(1992 Code, § 280:10) (Ord. 1187, passed 7-7-1998; Ord. 1527, passed 8-18-2015; Ord. 1534, passed 12-15-2015)

§ 52.04 NON-RESIDENTIAL EXAMPLE.

(A) *Example.*

Fee = 1 Acre X monthly fee intensity factor

0.33 acre *

* Residential lot assumed acreage

(B) *Fees.* The ERU shall be established as follows:

2023 - \$4.66

(C) Rates shall be effective January 1 of the given year.

(Ord. 1527, passed 8-18-2015)

§ 52.05 FEE ADJUSTMENTS.

(A) The Council may adopt policies, by resolution, for adjustment of the storm water management fees. Information to justify a fee adjustment must be supplied by the property owner. Such adjustments of fees shall not be retroactive.

(B) Properties of five acres or greater will be eligible for fee adjustments. The owner must request in writing to the City Engineer for the fee adjustment. In no case will the property pay more than the assumed rate assigned to the rate class. The existing impervious will be compared to the assumed impervious percentage and fees will be adjusted to the appropriate percentage.

(1992 Code, § 280:15) (Ord. 1187, passed 7-7-1998; Ord. 1527, passed 8-18-2015)

§ 52.06 EXEMPTIONS.

The following land uses are exempt from the storm water management fee:

- (A) Public road right-of-way;
- (B) Lakes, streams and other bodies of water;
- (C) Wetlands of the city;
- (D) Agricultural land;
- (E) Undeveloped property;
- (F) Platted, un-developed residential lots;
- (G) Cemeteries;
- (H) Golf courses; and
- (I) Railroads.

(1992 Code, § 280:20) (Ord. 1187, passed 7-7-1998; Ord. 1527, passed 8-18-2015)

§ 52.07 PAYMENT OF FEE.

- (A) Storm water utility fees shall be billed with water and sanitary sewer bills.

(B) The fee shall be due and payable with the same terms as sanitary sewer utility bills.

(C) Any prepayment or overpayment of charges shall be retained by the city and applied against subsequent fees.

(1992 Code, § 280:25) (Ord. 1187, passed 7-7-1998)

§ 52.08 APPEAL OF FEE.

If a property owner or person responsible for paying the storm water management fee believes that a particular assigned fee is incorrect, such person may request that the fee be recomputed.

(1992 Code, § 280:30) (Ord. 1187, passed 7-7-1998)

§ 52.09 LATE PAYMENT; PENALTY.

Each billing for storm water utility fees not paid when due shall incur a penalty charge of 5% of the amount past due for unpaid fees up to \$500 and 2% of such fees over \$500.

(1992 Code, § 280:35) (Ord. 1187, passed 7-7-1998)

§ 52.10 CERTIFICATION OF PAST DUE FEES ON TAXES.

(A) If three consecutive storm water utility fees have not been paid when due, then a penalty as set forth in § 52.08 of this chapter shall be added to the amount due.

(B) Any such past due fees may then be certified to the County Auditor for collection with real estate taxed on the following year pursuant to Minn. Stat. § 444.075, Subd. 3, as it may be amended from time to time.

(C) In addition, the city shall also have the right to bring a civil action or to take other legal remedies to collect unpaid fees.

(1992 Code, § 280:40) (Ord. 1187, passed 7-7-1998)

§ 52.11 EFFECTIVE DATE.

This subchapter shall be in full force and effect from January 1, 2016 and after its passage and publication.

(Ord. 1187, passed 7-7-1998; Ord. 1527, passed 8-18-2015)

STORM WATER MANAGEMENT

§ 52.25 GENERAL PROVISIONS.

(A) *Purpose.* The purpose of this subchapter is to establish standards and requirements for stormwater conveyance, treatment and discharge within the city; erosion and sediment control measures to be taken during the development of and alterations to lands within the city; and regulation of non-stormwater discharges to the city municipal separate storm sewer system (herein referred to as "MS4"). The purpose of this subchapter is to protect public health, safety and general welfare, property and the environment, and administer and implement stormwater best management practices (BMPs) as required by Federal (United States Environmental Protection Agency) and state (Minnesota Pollution Control Agency) laws and regulations.

(B) The objectives of this subchapters are:

(1) To maintain compliance with the city's stormwater pollution prevention program (SWPPP).

(2) To regulate the contribution of pollutants and prohibit illicit connections and discharges to the city's MS4.

(3) To regulate land disturbing activity, installation, operations, maintenance and replacement of the stormwater system, and protect and prevent the discharge of sediment into public and/or private lands, public infrastructure, wetlands and waters of the state.

(4) To establish legal authority to carry out all inspections, monitoring and enforcement procedures necessary to comply with this subchapter.

(5) To establish requirements for management of site specific stormwater discharge rates, volumes, and water quality.

(Ord. 1519, passed 3-3-2015)

§ 52.26 DEFINITIONS.

Unless specifically defined below, the words or phrases used in this subchapter shall have the same meaning as they have in common usage. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "must" are always mandatory and not merely directive.

APPLICANT. Any person or entity that applies for a building permit, subdivision approval, or a permit to allow land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's direction.

BEST MANAGEMENT PRACTICES (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including avoidance of impacts, prohibitions of practices, general housekeeping practices, pollution prevention and educational practices, operation and maintenance procedures, and other applicable management practices.

CONSTRUCTION ACTIVITY. A disturbance to the land resulting in a change in the

topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography.

COMMON PLAN OF DEVELOPMENT OR SALE. A contiguous area where multiple separate and distinct land disturbing activities may take place at different times, on different schedules, but under one proposed plan of development. One plan is broadly defined to include design, permit application, advertisement, or physical demarcation indicating that land disturbing activity may occur.

DEVELOPER. A person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

DISCHARGE. Any release, conveyance, channeling runoff, or drainage of stormwater including snow melt, from a construction site.

EROSION AND SEDIMENT CONTROL. The best management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by either the state, county, city or local watershed group, whichever is more stringent.

FINAL SITE SURVEY. Site survey includes final topographic contours with sufficient survey shots to adequately show constructed drainage patterns, spot elevations of all structures, elevations of lot corners, and all specific survey points for structural stormwater BMPs and entire stormwater system.

FINAL STABILIZATION. All soil disturbing activities at the site have been completed, and all soils are stabilized by intended uniform perennial vegetative cover with a density of 70% over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions as well as the following conditions:

- (a) All drainage ditches, constructed to drain water from the site after construction is complete, have been stabilized.
- (b) All temporary erosion prevention and sediment control BMP's have been removed from the site.
- (c) All existing and/or new conveyances and permanent stormwater treatment systems, affected by construction activity, restored to original design, capacity, and function.

FULLY RECONSTRUCTED. Any areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and other pavement rehabilitation projects that do not expose the underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed. Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed.

GRADING/ EROSION AND SEDIMENT CONTROL PERMIT. A permit issued by the city for the control of drainage, erosion, sedimentation, and other pollutants during land disturbing activities.

GREEN INFRASTRUCTURE. A wide array of practices at multiple scales that manage wet weather and maintains or restores natural hydrology through infiltration, evapotranspiration, or harvesting and using stormwater. On a regional scale, green infrastructure is the preservation or restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce the overall imperviousness in a watershed. On a local scale, green

infrastructure consists of the site and neighborhood specific practices such as bioretention, trees, green roofs, permeable pavement, and cisterns.

HAZARDOUS MATERIAL. Any material, substance, waste or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause and/or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

ILLICIT CONNECTIONS. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including, but not limited to, any conveyance which allows any non-storm water 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 has 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. Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to a NPDES permit and discharges exempt as outlined in § 52.28.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or limits the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow. Including but not limited to gravel, asphalt, concrete, brick, stone, and rooftops.

LAND DISTURBANCE ACTIVITY. Any activity that results in a change or alteration of the existing ground cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, excavating, grading, clearing, filling, stockpiling, hauling, construction, reconstruction, and borrow pits.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

(a) Owned and operated by the city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district or similar entity, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under Section 208 of the Federal Clean Water Act, United States Code, Title 33, Section 1288, that discharges into waters of the state;

(b) Designed or used for collecting or conveying stormwater;

(c) That is not combined sewer; and

(d) That is not part of a publicly owned treatment works as defined in 40 CFR § 122.2.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the USEPA (or by a State under authority delegated by the USEPA) that authorizes discharges to water of the

United States, as defined by the Federal Clean Water Act.

NEW DEVELOPMENT. All construction activity that is not defined as redevelopment.

NON-STORMWATER DISCHARGE. Any discharge to the stormwater system that is not composed entirely of stormwater.

OWNER(S). A person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination of, with a legal, equitable interest, or leasehold in the parcel of record.

PARCEL OF RECORD. A tract, plot, lot, and/or portion of subdivision or other parcel of land, intended as a unit for the purpose, whether immediate or future, of transfer of ownership, possession, or for building development.

PERMITTEE. A person issued a grading/ erosion and sediment control permit by the city.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking areas.

RECEIVING WATER. Any lake, river, stream, or wetland that receives stormwater discharges from an MS4.

REDEVELOPMENT. Any construction activity where, prior to the start of construction, the areas to be disturbed have 15% or more of impervious surface(s).

SEDIMENT. The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest on the earth's surface either above or below water level.

STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation.

STORMWATER MANAGEMENT PLAN. A joint grading and stormwater pollution prevention plan that is a document containing the requirements of § 52.29, that when implemented will decrease soil erosion on a parcel of land, minimize pollution, and promote effective drainage.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP). A plan developed to identify the sources of pollution that affect the quality of stormwater discharges from a site and to describe and ensure the implementation of practices to prevent or reduce pollutants in stormwater discharge.

STRUCTURE. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

STRUCTURAL STORMWATER BMP'S. Stationary and permanent BMP's designed, constructed, and operated to prevent or reduce the discharge of pollutants in stormwater.

SUBDIVISION. Any tract of land divided into building lots for private, public, commercial, industrial, etc. development. Minn. Rule 6120.2500, Subpart 17 defines subdivision as land that is divided for the purpose of sale, rent, or lease, including planned unit development.

SURFACE WATER(S). All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private, except that surface waters do not include treatment basins or ponds that were constructed from upland.

UNDERLYING SOILS. Any natural in-situ or fill soils that are not a man-made gradation.

WASTEWATER. Liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions which is discharged into or permitted to enter the city's wastewater treatment system.

WATERCOURSE. Any ditch, stream, creek, or other defined channel intended for the conveyance of water, runoff, groundwater discharge, or similar hydraulic or hydrologic purpose.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof (Minn. Stat. § 115.01, Subd. 22).

WETLANDS. As defined by the Wetland Conservation Act, as amended from time to time, and Steele County.

(Ord. 1519, passed 3-3-2015)

§ 52.27 SCOPE AND EFFECT.

(A) *Applicability.*

(1) Every applicant for a building permit or subdivision approval must submit a stormwater management plan to the Engineering Department. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the stormwater management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this subchapter.

(2) This subchapter shall apply to all water entering the city's stormwater system generated on any developed and undeveloped lands unless exempted by the city.

(B) *Erosion and sediment control exemptions.* The provisions of this subchapter do not apply to:

(1) Emergency work to protect life, limb, or property.

(2) Nursery, home gardening, and other agricultural practices that are confined to private property and do not constitute an illicit discharge or connection.

(C) *Grading/ erosion and sediment control permit exemptions.* The following activities do not require a grading/ESC permit but are subject to conditions of this subchapter:

(1) Land disturbing activities which disturb less than 5,000 square feet;

(2) Federal, state, county MS4 and other projects where the city does not have regulatory authority.

(D) *Stormwater discharge exemptions.* If not causing a public safety or nuisance, or adversely affecting water and/or environmental quality, the following shall not be considered prohibited discharges.

(1) Discharges from landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space sumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitat and wetlands, water main flushing. Discharges associated with dye testing; verbal approval prior to testing is required.

(2) Discharges or flow from firefighting activities and other discharges specified by the city as necessary to protect public health and safety.

(3) The prohibition shall not apply to any non-stormwater discharges permitted under an NPDES Permit, waiver or waste discharge order issued to the discharger and administered under the

authority of the USEPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater system.

(Ord. 1519, passed 3-3-2015)

§ 52.28 ILLICIT DISCHARGE DETECTION AND ELIMINATION.

(A) *Prohibited discharge and disposal.* This section shall apply to both actual and potential discharges.

(1) No person shall throw, drain or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the city's MS4, any pollutants or waters containing any pollutants, other than water wholly comprised of stormwater.

(2) No person shall throw, deposit, place, leave, keep or permit to be thrown, placed, left, maintained, or kept any refuse, rubbish, garbage, pet waste, or any other discarded objects, articles, or accumulations in or on any street, alley, sidewalk, storm drain, inlet, catch basin, drainage structure, so that it might be or become a pollutant, except in containers, recycling bags, or other lawfully established waste disposal facilities/containers.

(3) No person shall intentionally dispose of leaves, dirt, or other landscape debris into a street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain and any other fabricated or

natural conveyance.

(4) All stormwater system users, property owners, and occupants shall provide adequate protective procedures and measures to prevent discharges of any non-stormwater discharge to the city's MS4.

(5) All commercial, industrial, and institutional properties storing salt shall store the salt undercover or indoors. All salt must be stored on an impervious surface. Property owners shall implement best management practices to reduce exposure when transferring material in designated salt storage areas.

(B) Reporting illicit discharges.

(1) Discharge of prohibited waste shall be reported to the water quality specialist by the person(s) responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the discharge.

(2) Such notification will not relieve users of liability for expense, loss or damage to the stormwater system, or any fines imposed on the city under any state or Federal law. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge.

(3) The responsible person shall send detailed written notification describing the illicit discharge to the water quality specialist within seven days of knowledge of the discharge. The letter shall include the following information:

- (a) Time and location of the discharge;
- (b) Description of the discharge waste, including estimate of pollutant concentrations;
- (c) Time period and volume of discharge;
- (d) Actions taken to correct or control the discharge; and
- (e) A schedule of corrective measures to prevent further discharges.

(C) Prohibited connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the stormwater system is prohibited.

(2) This prohibition includes, without limitations, previous illicit connections regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) It is a violation of this ordinance to connect a line conveying non-stormwater, permanent or temporary, to the city's MS4 or allow these connections to continue.

(4) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or upon approval, to the city's wastewater treatment system.

(5) Any drain or conveyance that has not been documented in record drawings, maps, or equivalent, and which may be connected to the storm system shall be located by the owner or occupant of that property within 30 days upon receipt of written notice from the city requiring that the location be disclosed. Documentation shall be provided to the city including location of drain or conveyance, identification as storm sewer,

sanitary sewer or other, and the outfall location or point of entry into the city storm sewer, sanitary sewer, or other point of discharge.

(D) Watercourse protection.

(1) Every person owning property which a watercourse passes, shall keep and maintain that part of the watercourse within the property free of trash, debris, yard waste, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse.

(2) The owner shall maintain private structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, and physical integrity of the watercourse.

(E) Stormwater inspections. The city may conduct tests as necessary to enforce this subchapter, and authorized representatives of the city may enter any property in the manner provided by law for the purpose of inspection, observation, measurement, sampling, obtaining information or conducting surveys or investigations to enforce this subchapter. At the direction of the City Engineer, additional inspections due to noncompliance will be billed to the permittee as outlined in the most current stormwater fee schedule in Chapter 35, Appendix A.

(F) Discharge sampling. The city may require installation of monitoring equipment. All sampling and monitoring equipment shall be maintained and in proper operating condition by the discharger, at their expense. All devices used to measure stormwater flow and quality shall be calibrated, as specified by equipment manufacturer, to ensure accuracy.

(G) Requirement of best management practices. Any owner responsible for the premises that are, or may be, the source of an illicit discharge, may be required at the direction of the city to implement, at the owner's expense, additional best management practices to prevent the further and/or future discharge of pollutants to the city's MS4. In addition, any person discharging to the MS4 in violation of this subchapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge.

(H) Industrial or land disturbing activity discharges. Any person subject to an industrial or construction activity NPDES stormwater permit shall comply with all provisions of such permit. Written proof of compliance may be required prior to discharge to the city's MS4.

(Ord. 1519, passed 3-3-2015)

§ 52.29 STORMWATER MANAGEMENT PLANS.

(A) Application. A written application for stormwater management plan approval, along with the proposed stormwater management plan, shall be filed with the Engineering Department when applicable and shall include a statement indicating the purpose for which the approval is requested and adequate evidence showing that the proposed use will conform to the standards set forth in this subchapter.

(B) Stormwater Management Plan Submission. Drawings, plans, and reports together with information required in this section shall be submitted electronically to the Engineering Department when applicable and shall be accompanied by all applicable fees. Paper copies shall be submitted if requested by the Engineering Department. All

submissions must be received and approved prior to the commencement of any land disturbing activities.

(C) *Stormwater management plan approval.* No stormwater management plan which fails to meet the standards contained in this section shall be approved.

(D) *Conditions.* A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this subchapter and requirements designated by the City Engineering Department are met.

(E) *Compliance with city management plans.* All stormwater management plans must be prepared in accordance with the city stormwater management plan (SWMP) and the city's MS4 stormwater pollution prevention plan (SWPPP), on file in the Office of the City Engineer, as revised from time.

(F) *Compliance with watershed management plans/groundwater management plans/source water protection.* Stormwater management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minn. Statutes §§ 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources and Minnesota Department of Health in accordance with state law.

(G) *Engineering design checklist and standards.* All stormwater management plans must be prepared and conducted in accordance with the Engineering Department design checklist and standards for stormwater design, on file in the Office of the City Engineer, as revised from time to time. At a minimum the following information is required to be contained in all stormwater management plans:

- (1) Proper identification of owner(s) and contractor(s);
- (2) Description of construction activity;
- (3) Existing site conditions;
- (4) Site construction plan;
- (5) Erosion and sediment control BMP's;
- (6) Drainage and grading;
- (7) Plan of final site conditions;
- (8) Post construction stormwater management;
- (9) Plan for long-term stormwater management including annual maintenance plans and recorded agreements; and
- (10) Models, methods, and calculations for site hydrology and hydraulics including discharge rates, volume, and quality.

(H) *Stormwater pollution prevention plan.* All stormwater management plans must be accompanied by a Stormwater Pollution Prevention Plan (SWPPP) and all land disturbing activities shall be conducted in accordance with the most recent Minnesota Pollution Control Agency (MPCA) General NPDES/SDS Construction Permit MN R100001 (CGP) and are subject to § 52.31.

(I) *Easements.* If a stormwater management plan involves direction of some or all runoff, off the site, it shall be the responsibility of the owner to obtain from adjacent

property owner(s) any necessary easements or other property interests concerning flowage of water.

(J) Post construction stormwater management.

(1) *Design and calculations.* Site design and calculations shall be based on the following;

(a) All plans, whenever possible, shall be designed using the better site design techniques and other pertinent information found in the most recent Minnesota Stormwater Manual, which is available from the Minnesota Pollution Control Agency (MPCA) website at <https://stormwater.pca.state.mn.us/>

(b) Discharge rates derived using the standard methods of the natural resource conservation service as defined in the current Hydrology Guide for Minnesota, HydroCAD, or other hydrologic/ hydraulic models included in the Minnesota Stormwater Manual and subject to approval of the City Engineer.

(c) All calculations shall be made using National Oceanic and Atmospheric Administration Atlas 14.

(d) All calculations and methods used to determine water quality and volume treatment and/or control shall be determined by a licensed engineer and is subject to approval by the City Engineer.

(2) *Rate control.* Any land disturbing or development activity that results in one or more acres of land disturbances must meet the following;

(a) All stormwater management facilities necessary to manage increased runoff so that the two-year, ten-year, and 100-year 24 hour storm peak discharge rates existing before the proposed development shall not be increased unless otherwise approved by the City Engineer. Applicant shall also verify accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity.

(b) The applicant shall give highest preference to reducing the need for stormwater management facilities by incorporating the use of natural topography and green infrastructure.

(3) *Water quality and volume control.* For the proposed land disturbing and development activity, all permanent structural best management practices (BMPs) shall be installed in order to achieve the applicable minimum control requirements as specified by the most current version of the NPDES/SDS municipal separate storm sewer system permit. The applicant shall use any combination of BMPs, with the highest preference given to green infrastructure techniques and practices necessary to meet the following conditions in divisions (J)(3)(a) through (c) below to the maximum extent practicable (MEP);

(a) Any project where the sum of the new impervious surfaces and the fully reconstructed surfaces equals one or more acres shall provide treatment for the calculated water quality volume.

(b) For non-linear projects, water quality volume must be calculated as one (1.0) inch times the sum of the new and the fully reconstructed surfaces.

(c) For linear projects the water quality volume must be calculated as the larger of one (1.0) inch times and the new impervious surface or one-half (0.5) inch times the sum of the new and fully reconstructed impervious surfaces.

(d) The minimum impervious area draining to BMPs providing required water quality volume shall be equal to the sum of new and fully reconstructed surfaces or to the maximum extent practicable as determined by the City Engineer.

(e) Projects adding new impervious surfaces and/or fully reconstructed surfaces will be considered in cumulative over the life of the property. Land disturbance activity applicable to this requirement will be determined with respect to all development or redevelopment that has occurred from the time of ordinance adoption

(K) *Limitations and restrictions.* The use of infiltration techniques are prohibited when the infiltration structural BMP will be constructed in the following areas;

(1) Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS industrial stormwater permit.

(2) Where vehicle fueling and maintenance occurs.

(3) With less than three feet of separation distance from the bottom of the infiltration system to the elevation of seasonally saturated soils or the top of bedrock.

(4) Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater.

(a) The use of infiltration techniques will be restricted, but may be permitted if higher engineering review/testing ensures the practice will perform properly, when the infiltration structural BMP will be constructed in the following areas;

1. With predominately Hydrologic Soil Group D soils.

2. Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.

3. Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. Rules 4720.5100, Subp.13.

4. Where soil infiltration rates are more than 8.3 inches per hour.

(L) *Mitigation provisions for linear projects.* If the owner believes that the entire water quality volume requirements cannot be met on the site of the original construction activity, the owner must provide adequate documentation to the city as support including attempts to acquire additional right of way or other permission to provide treatment for the full water quality volume. The owner must provide treatment for the water quality volume to the maximum extent practicable. No further off-site mitigation is required.

(M) *Mitigation provisions for non-linear projects.* If the owner believes that the water quality volume requirements cannot be met on the site of the original construction activity, the owner must provide adequate documentation to the city as support. Stormwater discharges that do not meet the water quality volume on the site of the original construction activity must be met through mitigation. At the city's discretion, off-site mitigation may be allowed. The owner must identify locations where mitigation projects can be completed. The proposed mitigation must meet the following;

(1) Mitigation project areas must be selected in the following order of preference, in consultation and with approval by the city;

(a) Locations yielding benefits to the same receiving water that receives runoff

from the original construction activity.

(b) Locations within the same Department of Natural Resource (DNR) catchment area as the original construction activity.

(c) Locations in the next adjacent DNR catchment up-stream.

(d) Locations anywhere within the city's jurisdiction.

(2) Mitigation projects must involve the creation of new structural stormwater BMP's, the retrofit of existing structural stormwater BMP's, or the use of properly designed regional structural stormwater BMP's.

(3) Routine maintenance of existing structural stormwater BMP's is required and cannot be used to meet mitigation requirements of this section.

(4) Mitigation projects must be completed within 24 months after the start of the original construction activity.

(5) If the mitigation project is a private structural BMP and the city is not responsible for long-term maintenance of the project, the city will require written and recorded documentation of responsibility for maintenance.

(6) Payment in lieu of private mitigation projects, subject to city approval, may be accepted and used for funding a public stormwater project. The payment will be used to meet the water quality volume requirements outlined in divisions (J) and (M) of this section.

(Ord. 1519, passed 3-3-2015)

§ 52.30 STORMWATER MANAGEMENT PLAN REVIEW PROCEDURE.

(A) *Process.*

(1) *Subdivisions.* Stormwater management plans shall be reviewed by the Engineering Department and reviewed in accordance with the standards of § 52.29. Their findings shall be forwarded to the Planning Commission prior to its approval of the final plat of the subdivision. Staff findings shall include recommendation for approval; approval with conditions or modifications; or denial based on submission of incomplete plans, failure to meet ordinance provisions, or incompatibility with overall city drainage plans. Following Planning Commission approval, the final plat with the stormwater management plan shall be submitted with any recommendations and conditions to the City Council at its next regular meeting.

(2) *Building permits.* Stormwater management plans shall be reviewed by the Engineering Department for compliance with the standards of § 52.29. City staff shall contact the applicant or its agent on the review findings and indicate approval; approval with certain conditions or modifications; or denial based on submission of incomplete plans, failure to meet ordinance provisions, or incompatibility with overall city drainage plans. Upon approval of the stormwater management plans, the applicant or its agent shall be notified of compliance. Building permits involving such non-exempted land disturbance activities shall not be issued until such notice of compliance is given. Construction of single family or two family dwellings must comply with the approved stormwater pollution prevention plan.

(3) *Land disturbing activities not requiring a building permit.* Stormwater management plans shall be reviewed by the Engineering Department for compliance with the standards of § 52.29. City staff shall contact the applicant or its agent on the review findings and indicate approval; approval with certain conditions or modifications; or denial based on submission of incomplete plans, failure to meet ordinance provisions, or incompatibility with overall city drainage plans. Upon approval by the Engineering Department of the stormwater management plan, the applicant or its agent shall be notified of compliance. Subject to any other applicable statutes, ordinances, rules and regulations, permits or other such approvals for such non-exempted land disturbing activities shall be issued.

(B) *Appeal process.* Applicants may appeal approval and denial decisions to the City Council.

(Ord. 1519, passed 3-3-2015)

§ 52.31 EROSION AND SEDIMENT CONTROL.

(A) *Land disturbing activities.* All land use activities are subject to this subchapter unless exempt as defined in § 52.26.

(B) *Erosion and sediment control standards.* All land disturbing activities and stormwater pollution prevention plans (SWPPP) must be developed and conducted in accordance with the Minnesota Pollution Control Agency (MPCA) general NPDES/SDS

construction permit MN R100001 (CGP). At a minimum the SWPPP is required to include:

- (1) Perimeter erosion control devices, including but not limited to silt fence, sediment logs, and mulch berms;
- (2) Stockpile protection for temporary and permanent piles;
- (3) Phased grading;
- (4) Temporary and permanent stabilization;
- (5) Storm drain inlet protection devices;
- (6) Appropriately protected construction site entrance(s);
- (7) Removal of all debris, sediment, and discharges from all impervious surfaces, including adjacent public or private property;
- (8) Sediment basins and flow diversions;
- (9) Treatment of dewatering activity and basin draining prior to discharge;
- (10) All pollution prevention and management measures identified in most recent CGP including spill reporting and clean-up;
- (11) Inspections and Maintenance of all erosion and sediment control BMP's;
- (12) Requirements for final stabilization; and
- (13) Any other erosion and sediment control device as deemed necessary by the Engineering Department.

(C) *Grading/ erosion and sediment control permit.* Prior to any land disturbing activity, the owner and/or operator shall be required to obtain a grading/ ESC permit.

(1) This permit does not replace, eliminate, or satisfy the need for any other permits required by any other public or private entity.

(2) The following are required to obtain a grading/ erosion and sediment control permit:

- (a) All new single family residential construction; and
- (b) Land disturbing activities of greater than or equal to 5,000 square feet.

(D) *Permit fees.* All applications for a grading/erosion and sediment control permit shall be accompanied by the applicable fee. The fees shall be in the amount duly established by the Council from time to time. The permit fee schedule is listed the most current fee schedule adopted by resolution.

(E) *Duration of coverage.* Following approval of Engineering Department, a grading/ ESC permit shall remain effective until one of the following occurs;

(1) *Final stabilization.* Final stabilization is achieved, a notice of termination (NOT) has been filed with the Engineering Department, all termination of coverage requirements are met and the city has issued the NOT; or

(2) *Time requirement reached.* The grading/ ESC permit becomes void if work does not begin within 180 calendar days of permit approval or is suspended at any time for over 180 calendar days. If the permit becomes void, the permit application process will begin anew.

(3) *Extensions.* Extensions may be granted upon requests received at least 15 calendar days prior to permit becoming void.

(F) *Change of coverage.* Projects requiring a grading/ ESC permit where a change of ownership for any portion of the site occurs;

(1) The original/current applicant shall provide a copy of the NOT/transfer form and fact sheet to the new applicant.

(2) The original/current applicant shall provide the SWPPP, or equivalent plan, to the new applicant that specifically addresses the remaining construction activity. If the SWPPP or equivalent plan is not relevant, or the new applicant wants to use a new plan, this must be submitted with the NOT/transfer form to the Engineering Department.

(3) The new and current applicants shall work together to submit one completed and signed NOT/transfer form to the Engineering Department, prior to assuming operational control of the site, commencing work on their portion of the site, or legal transfer/sale.

(4) It is the responsibility of the new permittee to ensure the SWPPP meets all terms and conditions of this subchapter and their activities to not render ineffective another party's erosion and sediment control BMP's.

(G) *Termination of coverage.* A permittee wishing to terminate the grading/ ESC permit must complete the requirements of final stabilization and all requirements (1) through (5) below of the parcel of record and submit a notice of termination request to the Engineering Department.

(1) Compliance with the standards set forth in this subchapter is required until the NOT is submitted and approved by the Engineering Department.

(2) As-built drawings for all stormwater structures, topography, structure elevations, and a final site conditions must be provided to the Engineering Department prior to issuance of termination, unless otherwise determined by City Engineer. As-built shall be submitted along with the certification form from the engineer of record. Single family residential construction may be required to submit as-built drawings.

(3) For projects requiring an infiltration practice, the owner must provide documentation that the infiltration facility performs as designed. Accepted documentation includes:

(a) Time and date stamped photographs showing that the infiltration facility drains dry within 48 hours after a natural precipitation event approximately equivalent to the design storm.

(b) Time and date stamped photographs showing that the infiltration facility drains dry within 48 hours after the practice is filled with water from an alternative supply.

(c) Double-ring infiltrometer tests or other field tests approved by the City Engineer.

(4) All fees have been paid to the city in full.

(5) A recorded stormwater facility maintenance easement and agreement has been submitted to the Engineering Department.

(H) *Site inspections.* The city shall at all times have the right to enter and inspect a property to determine compliance with this subchapter.

(1) *Self-inspections.* The permittee or their designee must make regular inspections of all erosion and sediment control, the entire site, and receiving water bodies at least once every seven days during active construction and within 24 hours after a rainfall greater than 0.5 inches in 24 hours. Records of these inspections shall be kept for a minimum of three years and made readily available upon request made by the city.

(2) *City inspections.* The City Engineer and/or their designee shall make inspections and either approve that portion of the completed work or notify the permittee where work is non-compliant. The grading/ erosion and sediment control permit fee shall cover the cost of routine and follow-up inspections with compliant results. Additional inspections due to noncompliance will be billed to the permittee, at the direction of the City Engineer, as outlined in the most current stormwater fee schedule in Chapter 35, Appendix A.

(Ord. 1519, passed 3-3-2015)

§ 52.32 LONG-TERM MAINTENANCE FOR STORMWATER MANAGEMENT FACILITIES.

(A) *Recorded maintenance agreement.* Owners of private structural stormwater facilities shall be required to submit and comply with the city's stormwater facility maintenance agreement, a copy of which is on file in the Office of the City Engineer.

(B) *Responsibility to maintain and inspect.* A minimum annual inspection of the private facility shall be conducted and documented by the owner and/or operator. Documentation of inspections shall be kept for a minimum of five years and made readily available upon request by the city. All private stormwater facilities shall be maintained to the original approved design and treatment effectiveness.

(C) *Treatment integrity and effectiveness.* If site configurations or structural stormwater BMP's change, causing decreased effectiveness, new or improved BMP's must be implemented to meet the requirements of this subchapter as approved on the original stormwater management plan.

(D) *City inspections.* By accepting a permit under this subchapter, the owner grants to the city a public easement for right of entry and access for inspection and/or maintenance of private stormwater systems. If upon inspection, the Engineering Department finds that any private stormwater management facilities require maintenance, repair, or replacement, but such deficiencies do not create a critical or imminent threat to adjacent properties, the environment, or other stormwater facilities, the following procedures apply;

(1) The owner(s) responsible for the continued operation of the facilities shall be given written notice of the findings, what actions are required to correct the situation, and a timetable by which such activities must be completed.

(2) Such parties shall have 15 calendar days to reply to the Engineering Department indicating their response to the notice.

(3) If upon inspection it is determined by the Engineering Department the deficiencies create a critical or imminent threat to public health, public safety, adjacent properties, the environment, or other stormwater facilities, the city will require the deficiencies to be corrected within 24 hours or such other timeline specified by the City Engineer. Such notice will be served in person, by first class mail, and posting on the site of the deficiency.

(4) If the owner(s) do not complete the necessary activities stipulated by the Engineering Department or respond to the written notice, the City Council, after notice and public hearing, may order that such activities are completed by the city or its designated contractor and that all costs associated with such activities, including all administrative costs, be certified by the City Engineer to the City Council and assessed against the property. In the event the deficiency is determined to be an immediate danger, as outlined in this division (D)(3), the city will abate the danger as outlined in § 52.33(C).

(5) The amount charged shall be a lien upon the properties benefiting from and utilizing the stormwater facilities maintained, repaired or replaced and shall be added to, and become, and form part of the taxes next to be assessed and levied upon such properties, and the Council shall, by appropriate resolution, assess the costs above mentioned against said properties, and certify the same to the County Auditor of Steele County, Minnesota. The same shall be collected and enforced in the same manner as the collection of real estate taxes.

(Ord. 1519, passed 3-3-2015)

§ 52.33 VIOLATIONS AND ENFORCEMENT.

(A) *Violation enforcement.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. Any person who has violated or continues to violate the provisions of this subchapter, may be subject to the enforcement actions outlined in this subchapter or may be restrained by injunction or otherwise abated in a manner provided by law.

(B) *Notification by city.* The city shall notify the owner or permittee of the failure of compliance with this subchapter. The initial contact will be by phone. Forty-eight hours after notification by the city or 72 hours after the failure of compliance, the city, at its discretion, may begin corrective work and/or take other enforcement actions outlined in this section.

(C) *Emergency action.* In the event the violation constitutes an immediate danger to public health, safety, or welfare, the city is authorized to enter the property, without prior notice, to take any and all measures necessary to abate the violation and/or restore the property, at the owner's expense. The city will pursue measures to recover all costs associated with restoration.

(D) *Right of entry and inspection.* The owner(s) shall allow the city and its authorized representatives, upon presentation of credentials to:

(1) Enter upon a permitted site or property serviced by the city's stormwater system for the purpose of inspection;

(2) Bring equipment upon the permitted site as is necessary to conduct sampling, surveys and/or investigations;

(3) Examine and copy any books, papers, records, or memoranda during such inspection;

(4) Inspect the stormwater pollution control measures; and

(5) Sample and monitor any items or activities pertaining to stormwater pollution control measures.

(E) *Stop work order.* The City Engineer may issue an order to stop all and any work related to the construction activity, potential or actual illicit discharge, and any other activity causing nuisance conditions in the event of any of the following:

(1) Violation of any provision(s) this subchapter;

(2) Noncompliance of any term(s) of an issued grading/ ESC permit;

(3) Failure to obtain a grading/ ESC permit; and

(4) The grading/ ESC permit was issued based on incorrect/ false information.

(F) *Permit suspension or revocation.* If the permittee refuses or fails to cease work after the stop work order, the city shall suspend or revoke the grading/ESC permit.

(G) *Recovery of costs.* Any person violating any of the provisions of this subchapter shall become liable to the city for any expense, loss, or damage. If payment is not made within 30 calendar days after costs are incurred by the city, then the city may assess the remaining amount against the property.

(H) *Nuisance.* A violation of this subchapter constitutes a public nuisance under this city code.

(I) *Legal remedies nonexclusive.* Nothing in this section shall be construed to limit the city's other available legal remedies for any violation of this subchapter including criminal, civil, injunctive or other remedies.

(J) *Penalties.* Any person, firm, or corporation violating any provision of this subchapter shall be guilty of a penal offense and upon conviction thereof, subject to the penalties set forth in § 10.99 of the city code for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(K) *Falsifying information.* Any person who knowingly makes false statements, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant of this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this subchapter, shall upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment not more than 90 days or both.

(Ord. 1519, passed 3-3-2015)

§ 52.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person, firm or corporation violating any provision of §§ 52.25 through 52.35 of this chapter shall be guilty of a penal offense and, upon conviction thereof, subject to the penalties set forth in § 10.99 of this code of ordinances for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(1992 Code, § 317:07) (Ord. 1426, passed 3-18-2008)