

MS4 - Construction Site Runoff Control Ordinance

BLUE EARTH COUNTY
Minnesota

County Code of Ordinances; Chapter 6 Article VII

SECTION 1.00 PURPOSE, INTENT, AND AUTHORITY

1.01 PURPOSE

This ordinance establishes standards and requirements for erosion and sediment control measures to be taken during the development of and alterations to lands within the Blue Earth County MS4 area. The purpose of this ordinance is to protect health, safety and general welfare, property and the environment by establishing regulations for erosion and sediment control related to land disturbing activities as required by federal (United States Environmental Protection Agency, US-EPA) and state (Minnesota Pollution Control Agency, MPCA) law.

1.02 INTENT

- A. To regulate land disturbing activity that allows uncontrolled erosion to occur.
- B. To protect and prevent the discharge of sediment into public and/or private lands, public infrastructure, wetlands and waters of the State.

1.03 AUTHORITY

This ordinance is adopted pursuant to Minn. Stat. chs. 115, 116, 145A, 375, 394 or successor statutes, and Minn. R. chs. 7090, or successor rules.

SECTION 2.00 DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this ordinance shall have the same definition as provided in Minn. Stat. chs. 115, 116, 145A, Minn. R. ch. 7090, and 33 U.S.C. Sec. 1251 et seq. and if not defined there, shall have common usage meaning. For purposes of this ordinance, the words “must” and “shall” are mandatory and not permissive unless a different definition appears in this ordinance.

- 2.01 Applicant.** Any person or group that applies for a permit to allow land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

- 2.02 Best Management Practices (BMPs)** means the most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means of to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.
- 2.03 Builder, Commercial.** Any building contractor engaging in work other than work performed under a license from the State of Minnesota as a residential building contractor, remodeler or specialty contractor 1 [in] the business of contracting or offering to contract to improve residential real estate, all terms as defined by Minnesota Statute.
- 2.04 Building Construction.** The construction of any principle building or accessory structure or modification of a parcel of land or platted lot.
- 2.05 Common Plan of Development or Sale** means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
- 2.06 Construction Activity** includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling, and excavating.
- 2.07 County** means Blue Earth County, Minnesota, staff and designated agents.
- 2.08 County Board** means the Blue Earth County Board of Commissioners.
- 2.09 Departments** means the Blue Earth County Environmental Services Department and/or the Public Works/Parks Department (or their successor), their staff and designated agents.
- 2.10 Developer.** Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision engaged in a land disturbance activity.
- 2.11 Dewatering** means the removal of surface or ground water to dry and/or solidify a construction site to enable construction activity.
- 2.12 Final Stabilization** means that all soil disturbing activities at the site have been completed and all soils must be stabilized by a uniform perennial vegetative cover with a density of seventy percent (70%) or greater over the entire previous service area, or other equivalent means necessary to prevent soil failure under erosive conditions and:
- a. All drainage ditches, constructed to drain water from the site after construction is complete, must be stabilized to exclude erosion;
 - b. All temporary synthetic and structural erosion prevention and sediment control BMPs (such as silt fence) must be removed; and

- c. The Permittee must clean out all sediment from conveyances and from temporary sedimentation basins that are to be used as permanent water quality management basins. Sediment must be stabilized to prevent it from being washed back into the basin and/or into conveyances or drainage ways discharging off-site or to surface waters. The cleanout of permanent basins must be sufficient to return the basin to design capacity.

- 2.13 Grading Manual.** Blue Earth County Grading Manual, most current version; requirements for grading and drainage design and construction for any land disturbing activities.
- 2.14 Impervious Surface** means a constructed hard surface that either prevents or retards 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 than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, whether constructed of concrete, asphalt, or gravel.
- 2.15 Land Development (Develop).** The process whereby improvement to a single lot or to an entire site, occurs in one continuous process or in more than one distinct phase, including but not limited to the following activities, site grading; installation of utilities; construction of public streets; construction or grading of drainage ways; other grading or filling of any area within the site; grading of building pad areas; utility hookups; construction of buildings; parking lots; driveways; storage areas; private streets; and any other construction or land disturbing activity within the subject property site.
- 2.16 Land Disturbing Activity.** Any removal of vegetation, excavating, grading, clearing, filling, stockpiling, hauling, or other earth change related to or associated with construction or reconstruction, which may result in movement of soil particles of earth.
- 2.17 Land Disturbance Permit.** A permit issued by the County for the control of erosion and sediment during land disturbing activities.
- 2.18 Municipal Separate Storm Sewer System (MS4).** The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains) owned or operated by a state city, town, county, district, association, or other public body and designed or used for collecting or conveying stormwater, and not used for collecting or conveying wastewater that discharges to waters of the state.
- 2.19 National Pollutant Discharge Elimination System** means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.
- 2.20 Natural Buffer** means an area of undisturbed cover surrounding surface waters within which construction activities are restricted. Natural buffer includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.
- 2.21 Notice of Termination** means notice to terminate coverage under a Land Disturbance Permit after construction is complete, the site has undergone Final Stabilization, and maintenance

agreements for all permanent facilities have been established, in accordance with all applicable conditions of said permit.

- 2.22 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.
- 2.23 Permanent Cover** means surface types that will prevent soil failure under erosive conditions. Examples include: gravel, asphalt, concrete, rip rap, roof tops, perennial cover, or other landscaped material that will permanently arrest soil erosion. A uniform perennial vegetative cover (i.e. evenly distributed, without large bare areas) with a density of 70 percent of the native background vegetative cover for the area must be established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures. Permanent cover does not include the practices listed under temporary erosion protection.
- 2.24 Permittee.** A Land Disturbance Permit holder.
- 2.25 Person or Owner.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent, or has charge, care or control of the property, or a combination of, with any legal or equitable interest in the property.
- 2.26 Preliminary Plat.** A drawing of the entire subdivision meeting all requirements of the County Subdivision Ordinance.
- 2.27 Public waters.** All basins and watercourses that meet the criteria set forth in Minnesota Statutes, Section 103G.005, Subdivision 15 that are identified on Public Water Inventory maps and lists authorized by Minnesota Statute, Section 103G.201.
- 2.28 Responsible Party.** Responsible party means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- 2.29 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, air, or ice, and has come to rest on the earth's surface either above or below water level.
- 2.30 Stabilization.** The covering of exposed ground surface by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Applying mulch, hydromulch, tackifier, polyacrylamide or similar erosion prevention practices is not acceptable stabilization in temporary or permanent drainage ditches or areas where concentrated overland flow occurs. Grass seeding is not stabilization.
- 2.31 Stormwater.** The precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage. Stormwater does not include construction site dewatering.

- 2.32 Stormwater Pollution Prevention Plan (SWPPP).** A plan developed to identify the sources of pollution that affect the quality of stormwater discharge from a site and to describe and ensure the implementation of practices to prevent or reduce pollutants in stormwater discharge.
- 2.33 Surface Water or Waters** means 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.
- 2.34 Temporary erosion protection** means methods employed to prevent erosion during construction activities. Examples of temporary erosion protection include, but are not limited to: straw, wood fiber blanket, wood chips, vegetation, mulch, and rolled erosion control products.
- 2.35 Waters of the State** (as defined in Minn. Stat. § 115.01, subd. 22) means 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.

SECTION 3.00 APPLICABILITY

This ordinance establishes standards and requirements for erosion and sediment control measures to be taken during the development of and alterations to lands within the Blue Earth County MS4 area. This ordinance applies to the areas of the Blue Earth County MS4 where Blue Earth County has permitting authority for zoning or other land use related permitting. The Blue Earth County MS4 area is limited to the portions of the County located in the urbanized areas. This ordinance does not affect the liability or obligation imposed by Minnesota Statute, Minnesota Rule, Federal Law, or the requirements of other agencies with regulatory authority.

SECTION 4.00 HIGHEST STANDARDS PREVAIL

Where the conditions imposed by a provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by a provision of this ordinance or any other applicable law, ordinance, rule, or regulation, the provision that establishes the higher standard for the promotion and protection of the public health, safety, and general welfare shall prevail.

SECTION 5.00 RESPONSIBILITY OF ADMINISTRATION

The Departments or its designee shall administer, implement and enforce the provisions of this ordinance. At appropriate times, the County shall review, revise and update this ordinance as necessary

SECTION 6.00 SUBJECT LAND USE ACTIVITIES

6.01 All land disturbing activities are subject to the conditions of this ordinance.

1. In the Agricultural District or Conservation District as shown on the Official Blue Earth County Zoning Map, the responsible party for projects that disturb under one acre of land are not required to obtain a Land Disturbance Permit, but must comply with the requirements in Section 12.02 of this Ordinance.
2. In the Rural Townsite, Rural Residence, General Business, Highway Business, Light Industry, or Heavy Industry Zoning Districts as shown on the Official Blue Earth County Zoning Map, the responsible party for projects that disturb between 5,000 square feet of land and one acre of land are required to obtain a Land Disturbance Permit before disturbing any land and must comply with the requirements in Section 12.02 of this Ordinance.
3. The responsible party for all projects that disturb one acre or more of land are required to obtain a Land Disturbance Permit before disturbing any land and must comply with the minimum requirements of Section 12.01 and 12.02 of this Ordinance.
 - a. All persons planning a land disturbing activity that disturbs one acre or more of land, shall first obtain a National Pollution Discharge Elimination System Construction Stormwater Permit, before applying for a Land Disturbance Permit from the County. A County Construction permit will not be issued without an approved Land Disturbance Permit.
 - b. Roadway, Utility and Subdivisions. All persons wishing to start a land disturbance project for the purposes of the construction of any roadway, utilities, mass grading, or site development that disturbs one acre or more of land, shall first obtain a National Pollution Discharge Elimination System Construction Stormwater Permit, before applying for a Land Disturbance Permit from the County. Each parcel of record within a subdivision must obtain a separate Land Disturbance Permit.
4. The Land Disturbance Permit does not replace, eliminate or satisfy the need for any other permits required by any other public or private entity.

SECTION 7.00 LAND USE EXEMPTIONS

7.01 The following activities are exempt from the requirements of this ordinance:

1. Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

SECTION 8.00 LAND DISTURBANCE PERMIT EXCEPTIONS

8.01 The following activities require application and issuance of a Land Disturbance Permit and are subject to the provisions of this ordinance, but are exempt from the fee requirements:

1. Maintenance work or construction projects administered through the County's Departments.

2. Federal, State, County, MS4 and other projects where the County does not have regulatory authority.
3. Small utilities working in the right-of-way.

SECTION 9.00 LAND DISTURBANCE PERMIT REVIEW

- 9.01 Prior to any land disturbing activities on lands that meet the requirements in Section 6 for a Land Disturbance Permit, the owner or applicant shall apply for and obtain a Land Disturbance Permit from the County.
1. Land Disturbance Permit applications shall be submitted to the County for review after the applicant obtains an MPCA Construction Stormwater Permit for construction activities that result in land disturbance of one acre or more or for a common plan of development that disturbs one acre or more.
 2. Land Disturbance Permits for projects that are one acre or larger shall be processed within thirty (30) calendar days from receipt of a completed application.
 3. Land Disturbance Permits for projects under one acre shall be processed within ten (10) business days from receipt of a completed application.
 4. The County shall in writing:
 - a. Approve the permit application;
 - b. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Ordinance, and issue the permit subject to these conditions; or
 - c. Deny the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
 - d. Failure of the County to act on an original or revised Land Disturbance Permit application within the time period specified in this Section, shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the County, or the County notifies the applicant of errors and/or omissions in the application requiring corrective action on the part of the applicant. Once the Land Disturbance Permit is approved, permit coverage will be issued to the Permittee.

SECTION 10.00 LAND DISTURBANCE PERMIT FEES

- 10.01 Fees for Land Disturbance Permits and After-the-Fact Land Disturbance Permits for projects which have started a land disturbing activity without a permit shall be established by County Board Resolution.
1. All Land Disturbance Permit fees shall be submitted to the County with the permit application.

SECTION 11.00 LAND DISTURBANCE PERMIT SUBMITTAL

11.01 The application for a Land Disturbance Permit shall include the following:

- A. For sites that disturb one acre or more of land, a copy of the Stormwater Pollution Prevention Plan (SWPPP) or portion of the SWPPP prepared for the MPCA.
- B. The location address(es) and parcel identification number (s) of the property where the land disturbance activity is proposed.
- C. The applicant name, property owner name and identification of who is responsible for post construction maintenance of all BMPs.
- D. A site plan or plans that clearly shows the location of all proposed land disturbing activities and the location of all existing and proposed:
 - 1. Property lines;
 - 2. Roads;
 - 3. Structures and buildings;
 - 4. Driveway and means of ingress and egress and circulation;
 - 5. Parking areas and other impervious surfaces;
 - 6. Sewer lines and all portions of septic systems;
 - 7. Wells and water lines;
 - 8. Wetlands and wetland protection easements;
 - 9. Public waters located on or within 100 feet of the subject property;
 - 10. Stormwater drains, footing tile drain outlet locations, and drainage ways on or adjacent to the subject property;
 - 11. Soil stockpiles;
 - 12. Topographic contours at one or two foot contour intervals;
 - 13. Other site specific information that reasonably may be required in order for an informed decision to be made by the approving authority;
- E. Erosion, Sediment and Waste Control Measures. The site plan or plans should show the proposed measures to control erosion, sediment and waste including:
 - 1. Identification of all areas to be graded or excavated, and the limits of land disturbing activities;
 - 2. Identification of measures to be utilized to control erosion and sedimentation within and from the subject property during the project activity as required herein;
 - 3. Identification of all permanent erosion control measures and a completion schedule;
 - 4. Identification of the location of soil storage or stock pile areas to be utilized.
 - 5. If soil will be stored or moved to a different property off-site, the location shall be identified;

6. Identification of all measures to be utilized to protect neighboring property, water bodies, and wetlands;
7. Identification, use and maintenance plan of BMPs for effective temporary erosion and sedimentation control including but not limited to:
 - a. Perimeter erosion control devices, including but not limited to silt fence, sediment logs, mulch, etc;
 - b. Stockpile protection;
 - c. Phased grading;
 - d. Temporary seeding, mulching, and disc anchoring (with seed and mulch type);
 - e. Storm drain inlet protection devices;
 - f. Appropriately protected construction entrance;
 - g. Removal of all debris, dirt and soil from impervious ground surfaces, including abutting public or private roadways and sidewalks, in connection with the subject property (street sweeping);
 - h. Sediment basins and flow diversions; and
 - i. Any other erosion and sedimentation control device as deemed necessary by the County.

F. Drainage and Grading Plans.

1. Documents and plans as required and necessary for the review of site drainage and grading.

SECTION 12.00 REQUIREMENTS AND STANDARDS

- 12.01 The responsible party for all projects that disturb one acre of land or more shall obtain coverage under and comply with the standards in the most recent Minnesota Pollution Control Agency (MPCA) National Pollutant Discharge Elimination System (NPDES) Construction Storm Water Permit (MN R100001), and comply with the following general standards in section 12.02.
- 12.02 The responsible party for all land disturbing projects shall comply with the following standards:
 - A. **EROSION, SEDIMENT, AND WASTE CONTROL PRACTICES.** Erosion, sediment, and waste control practices shall be used at each site where the land disturbing construction activity is to occur to prevent or reduce all of the following:
 1. The deposition of soil from being tracked onto roads by vehicles.
 2. The discharge of sediment from disturbed areas into storm water inlets.
 3. The discharge of sediment from disturbed areas into any surface water.
 4. The discharge of sediment from drainage ways that flow off the site.
 5. The discharge of sediment from dewatering activities.

6. The discharge of sediment eroding from soil stockpiles.
 7. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period.
- B. LOCATION. The erosion, sediment, and waste control practices shall be located so that treatment occurs before runoff leaves the site or before runoff enters waters of the state.
- C. IMPLEMENTATION. The erosion, sediment and waste control practices used to comply with this section shall be implemented as follows:
1. Erosion, sediment, and waste control practices shall be constructed or installed before land disturbing construction activities begin.
 2. Erosion, sediment and waste control practices shall be maintained and repaired until final stabilization to assure the continued performance of their intended function.
 3. All exposed soil areas and stockpiles must be stabilized. Stabilization must be initiated immediately to limit soil erosion whenever any construction activity has permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed no later than 14 calendar days after the construction activity in that portion of the site has temporarily or permanently ceased. When the site is within one mile of an impaired water, stabilization must be completed no later than 7 calendar days after the construction activity in that portion of the site has temporarily or permanently ceased.
 4. Property, roadways, and ditches adjacent to the site of a land disturbance shall be protected from sediment deposition. This shall be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, dikes or sediment basins, by stockpiling soil in appropriate locations or by a combination of such measures.
 5. All storm sewer inlets which are functioning during construction shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
 6. Property and waterways downstream from development sites shall be protected from flooding and erosion due to increases in the volume, velocity and peak water flow rate of stormwater runoff.
 7. Whenever construction vehicles access public roads, provisions shall be made to minimize the transport of sediment by runoff or vehicle tracking onto the road surface. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day.
 8. Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

9. Erosion and sediment control practices that are no longer necessary for erosion and sediment control shall be removed by the responsible party within thirty (30) days after final site stabilization is achieved.

SECTION 13.00 DURATION OF COVERAGE BY LAND DISTURBANCE PERMIT

13.01 A Land Disturbance Permit shall remain effective until one of the following occurs:

1. Final Stabilization. A Land Disturbance Permit shall remain effective until after final stabilization is achieved, a Notice of Termination has been filed with the County, all termination of coverage requirements are met, and the County has issued the Notice of Termination. A Notice of Termination of a Land Disturbance Permit issued by the County does not terminate the MPCA NPDES Construction Stormwater Permit; a separate Notice of Termination must be filed with the MPCA.
2. Change of Coverage. For stormwater discharges from construction projects where the owner changes prior to issuing Notice of Termination of a Land Disturbance Permit (e.g. a homebuilder sells a house and lot to the final homebuyer or the entire site changes ownership):
 - a. The original/current applicant shall provide a copy of the Notice of Termination for the Land Disturbance Permit or permit modification form to the new applicant.
 - b. 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 Notice of Termination/permit modification form.
 - c. The new and current applicants shall work together to submit one completed and signed permit modification form to the County within seven (7) calendar days of assuming operational control of the site, commencing work on their portion of the site, or of the legal transfer, sale, or closing on the property. No new fees will be required.

The change of coverage becomes effective five (5) calendar days from receipt of the completed form unless the permittee is contacted by the County during the five (5) day period and notified of an incomplete form. The permit modification portion of the Notice of Termination/permit modification form acts as the permit application for the new applicant and a Notice of Termination for the current applicant only for the portion of the site which was sold.
 - d. Late submittals of Land Disturbance Permit transfers will not be rejected; however, the County reserves the right to take enforcement action for any unpermitted discharges or permit noncompliance for the new registered party that has assumed control of the site.
 - e. For stormwater discharges from construction activities where the applicant changes, the new applicant can implement the original SWPPP created for the project or develop and implement their own SWPPP.
 - f. The new permittee shall ensure either directly through coordination with the old permittee that their SWPPP meets all terms and conditions of this ordinance or that

their activities do not render ineffective another party's erosion prevention and sediment control BMP's.

3. Time Requirement Reached. The Land Disturbance Permit becomes void if work does not begin within 180 days of permit approval or is suspended at any time for over 180 days. Extensions may be granted for requests received at least 15 days prior to permit becoming void. If a permit becomes void, the permit application process will begin anew.

SECTION 14.00 TERMINATION OF COVERAGE

- 14.01 A permittee wishing to terminate the Land Disturbance Permit must complete Final Stabilization and submit a Notice of Termination request. Requests for Notices of Termination are made by completing the Notice of Termination permit modification form supplied with the permit and submitting it to Departments or designee as provided with the notice of coverage.

Compliance with the Land Disturbance Permit is required until a Notice of Termination is submitted and approved by the County. The Notice of Termination becomes effective fifteen (15) calendar days after the postmarked date of the completed Notice of Termination form or other proper notification, unless the permittee is contacted by the County during the fifteen (15) day period and notified that the Notice of Termination request is incomplete or that the request has been denied.

SECTION 15.00 INSPECTIONS

- 15.01 The County shall have the right to enter and inspect a property to determine compliance with this ordinance.
 1. Self Inspections. The permittee or their designee must make regular inspections of the entire site at least once every seven (7) days during active construction and within twenty-four (24) hours after a rainfall event greater than 0.5 inches in 24 hours, to ensure compliance with this ordinance and the requirements of the most recent Minnesota Pollution Control Agency (MPCA) National Pollutant Discharge Elimination System (NPDES) Construction Storm Water Permit (MN RI00001). Records of these inspections shall be made available to the County upon request.
 2. County Inspections. The County and/or its designee shall make inspections and either approve that portion of work or notify the permittee where work is non-compliant. Whenever necessary to perform an inspection to enforce any of the provisions of this ordinance, the County or its authorized agent may enter and inspect at any property, including construction activity sites, subject to regulation under this ordinance at all reasonable times to inspect the same or to perform any duty imposed upon the County by this ordinance. If such facility is occupied, the County shall first present proper credentials and request entry; and if such facility be unoccupied, the County shall first make reasonable efforts to locate the owner or other person having charge or control of the facility and request entry. If such entry is refused, the County shall have recourse to every remedy provided by law to secure entry including, but not limited to, administrative and criminal search warrants. The Land Disturbance Permit fee shall cover the cost of routine inspections. Additional inspections due to non-compliance will be billed to the affected property owner at a rate determined by County Board Resolution.

SECTION 16.00 ENFORCEMENT – NOTICE OF VIOLATION

- 16.01 In the event of non-compliance, the County may suspend construction and any issued permits. Only corrective action work to bring the site back to compliance will be permitted, and no other construction on the site shall be allowed until authorized by the County. A fine and fee structure shall be established by County Board Resolution.
- 16.02 The County shall use the following procedure to notify owners of violations and corrective measures.
1. Residential, Commercial, Multi-family and Industrial Sites. In the event a building site permittee is in violation of the Land Disturbance Permit or the SWPPP, the County may issue a stop work order suspend or revoke the Land Disturbance Permit or County Construction Permits for the site. The County shall serve the permittee and/or other responsible persons, in writing a Notice of Violation.
 2. Land Disturbing Activities in the Public Right-of-Ways. The County shall notify the responsible party of the violation and require that construction activities be terminated to allow the responsible party to remove conditions or remedy any defects. The notice shall require the responsible party to take reasonable steps within twenty-four (24) hours to abate and correct the violation.
 3. Stop Work Orders. The County Administrator or their designee may issue stop work orders for any violation of this ordinance.
 4. Public Nuisance. A violation of this section is declared to be a public nuisance and may be abated.

SECTION 17.00 APPEAL OF NOTICE OF VIOLATION

Any person receiving a Notice of Violation may appeal the determination of the Department. The written notice of appeal must be received within 10 business days from the date of the Notice of Violation, and must state the grounds for the appeal. The hearing shall be held before the County Board, or a hearing examiner appointed by the County Board by resolution. The hearing examiner shall conduct the hearing; and make findings of fact, conclusions and recommendations to the County Board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the County Board in a written report, and the County Board may adopt, modify or reject the report. Unless an extension of time is requested by the appellant in writing directed to the chair of the County Board is granted, the hearing will be held no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 90 calendar days after the date of service of request for hearing, exclusive of the date of such service. The decision of the County Board shall be final. Any appellant aggrieved by the decision of the County Board may appeal that decision to any court with appropriate jurisdiction. This section does not apply where violations of other federal or state laws occurs or where a hazardous material spill or release occurs.

SECTION 18.00 ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, then representatives of the authorized Department shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 19.00 COST OF ABATEMENT OF THE VIOLATION

After abatement of the violation by Blue Earth County, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 business days. If the amount due is not paid within a timely manner as determined by the decision of the Department or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the County by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate determined by the County Board shall be assessed on the balance beginning on the 30th day following completion of the work to abate the violation.

SECTION 20.00 INJUNCTIVE RELIEF AND VIOLATIONS DEEMED A PUBLIC NUISANCE

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. The authorized enforcement agency may also recover all attorney's fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses, and any additional relief the court may deem necessary and proper.

SECTION 21.00 CRIMINAL PROSECUTION

Any person violating the provisions of this ordinance shall be guilty of a misdemeanor criminal offense punishable by a fine of up to \$1000 or a jail sentence of up to 90 days or both. Each day that violation is committed or permitted to exist shall constitute a separate offense. The authorized enforcement agency may recover as restitution all other expenses associated with the enforcement of

this ordinance, including sampling and monitoring expenses. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this ordinance.

SECTION 22.00 SEVERABILITY

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

SECTION 23.00 REMEDIES CUMULATIVE

No remedy set forth in this ordinance is intended to be exclusive but each such remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or equity. No delay in the exercise of any remedy for violation of this ordinance shall later impair or waive any such right or power of the County.

SECTION 24.00 EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication according to law



B.E.Co. P 92
A#N: Scott F
33 pgs
Due
(2)

561CR621
CERTIFIED, FILED AND/OR RECORDED ON
12/26/2017 8:17 AM
BLUE EARTH COUNTY, MN
MICHAEL STALBERGER COUNTY RECORDER
TAXPAYER SERVICES DIRECTOR
REC FEE: 46.00 EXEMPT: N
MRT PD: EXEMPT: N/A
SPLIT-CURRENT TX PD: N/A
PAGES: 33

**AN ORDINANCE AMENDING
THE BLUE EARTH COUNTY CODE OF ORDINANCES
TO ADD THE MS4 - CONSTRUCTION SITE RUNOFF CONTROL ORDINANCE
TO CHAPTER 6, ARTICLE VII**

WHEREAS, the State and Federal government has designated Blue Earth County an urbanized area and a small municipal separate storm sewer systems (MS4) community; and,

WHEREAS, the National Pollutant Discharge Elimination System permit requires that regulated small MS4 communities implement measures to control erosion, sediment and waste from construction sites; and,

WHEREAS, the MS4 - Construction Site Runoff Control Ordinance is necessary to implement and enforce standards to reduce pollutants from construction site runoff to gain compliance with the MS4 requirements; and,

WHEREAS, the MS4 - Construction Site Runoff Control Ordinance is based on the City of Mankato's Code to help ensure consistency with the regional MS4 program; and,

WHEREAS; the County Board of Commissioners on the 12th day of December, 2017, following proper notice held a public hearing regarding the request, and following due consideration of presented testimony and information, voted to adopt the proposed ordinance amendment; and,

WHEREAS, the Blue Earth County Board of Commissioners finds that:

- a) The Ordinance Amendment to add Chapter 6, Article VII of the Code of Ordinances will help protect the public health, safety and general welfare of the residents in Blue Earth County by implementing measures to control runoff at construction sites.
- b) The Ordinance Amendment to add Chapter 6, Article VII of the Code of Ordinances meets State and Federal rules for the regulation of construction site runoff.

NOW THEREFORE BE IT ORDAINED, by the Blue Earth County Board of Commissioners that the amendment to the Blue Earth County Code of Ordinances to add Chapter 6, Article VII, the MS4 - Construction Site Runoff Control Ordinance, is hereby adopted.

The MS4 - Construction Site Runoff Control Ordinance shall become effective immediately after its required publication.

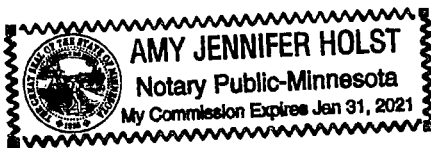
Passed this 12th Day of December, 2017.

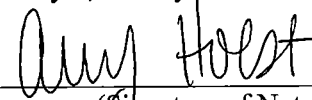

Chair, Blue Earth County Board of Commissioners

ATTEST: 
County Administrator

STATE OF MINNESOTA, COUNTY OF BLUE EARTH

This instrument was acknowledged before me on this 12th day of December, 2017,
by Mark Piepho, Chair of the Board, and by Robert W. Meyer, County Administrator.




(Signature of Notary Officer)

Title Communications Specialist

My commission expires: 01/31/2021
(Month/day/year)

DRAFTED BY:
Blue Earth County Environmental Services
P.O. Box 3566
Mankato, MN 56002-3566

AFFIDAVIT OF PUBLICATION

State of Minnesota, ss.
County of Blue Earth

Steve Jameson, being duly sworn, on oath states as follows:

1. I am the publisher of The Free Press, or the publisher's designated agent. I have personal knowledge of the facts stated in this Affidavit, which is made pursuant to Minnesota Statutes §331A.07.
2. The newspaper has complied with all of the requirements to constitute a qualified newspaper under Minnesota law, including those requirements found in Minnesota Statutes §331A.02.
3. The dates of the month and the year and day of the week upon which the public notice attached/copied below was published in the newspaper are as follows:

The printed _____ notice _____ which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive weeks; it was first published on Saturday, the 16 day of December, 2017, and was thereafter printed and published on every Saturday to and including Saturday, the 16 day of December, 2017; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

The Publisher's lowest classified rate paid by commercial users for comparable space, as determined pursuant to § 331A.06, is as follows: \$43.00.

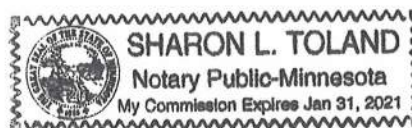
Pursuant to Minnesota Statutes §580.033 relating to the publication of mortgage foreclosure notice: The newspaper's known office is located in Blue Earth County. The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

FURTHER YOUR AFFIANT SAITH NOT.

By: Steve Jameson
Steve Jameson, Publisher

Subscribed and sworn to before me on this 18 day of December, 2017.

Sharon L. Toland
Notary Public



December 16, 2017
BLUE EARTH COUNTY
PUBLIC NOTICE OF ORDINANCE ADOPTION
FOR THE MS4 - CONSTRUCTION SITE RUNOFF
CONTROL ORDINANCE

Notice is hereby given that a public hearing was held by the Blue Earth County Board of Commissioners on December 12, 2017 at which time the Board of Commissioners formally adopted the MS4 - Construction Site Runoff Control Ordinance.

The MS4 - Construction Site Runoff Control Ordinance establishes standards and requirements for erosion and sediment control measures to be taken during the development of and alterations to lands within the Blue Earth County MS4 area. The purpose of this ordinance is to protect health, safety and general welfare, property and the environment by establishing regulations for erosion and sediment control related to land disturbing activities as required by federal (United States Environmental Protection Agency, US-EPA) and state (Minnesota Pollution Control Agency, MPCA) law.

The MS4 - Construction Site Runoff Control Ordinance goes into effect immediately after this required publication.
Scott Fichtner
Environmental Services Director
(507) 304-4381