

ORDINANCE NO. 911

AN ORDINANCE OF THE CITY OF NORTHFIELD, MINNESOTA, ADOPTING NEW CHAPTER 22, ENVIRONMENT, ARTICLE VI, SURFACE WATER MANAGEMENT, DIVISION 2, STORMWATER MANAGEMENT AND DIVISION 3, ILLICIT DISCHARGE AND ILLEGAL CONNECTION TO THE STORMWATER SYSTEM.

The City Council of the City of Northfield, Minnesota, does ordain that the following Chapter 22, Environment, Article VI, Surface Water Management, Division 2, Stormwater Management through Division 3, Illicit Discharge and Illegal Connection to the Stormwater System is hereby adopted:

Chapter 22

ENVIRONMENT

Article VI. Surface Water Management

Section 22-238 to 22-299 – Reserved

DIVISION 2. – STORMWATER MANAGEMENT

Section 22-300. – Purpose, scope and definitions

- (a) Purpose. The purpose of this division is to minimize negative impacts of stormwater runoff pollution on the city's water resources by regulating development activities and by assuring long-term effectiveness of existing and future stormwater management facilities on public and private property. This division sets forth rules and regulations to manage the stormwater runoff and establishes procedures for the development and approval of a stormwater management plan. This division is adopted pursuant to the authorization contained in Minnesota Statutes Chapter 103B and 462, and Minnesota Rules Chapter 7090.
- (b) Applicability. A stormwater management plan meeting the standards and procedures established herein shall be submitted as part of an application for any Site Plan Review or Plat.
- (c) Exceptions. A Stormwater Management Plan is not required for the following:
 - (1) Any part of a subdivision if a preliminary plat for the subdivision has been approved by the City Council on or before the effective date of this Article.
 - (2) Any site plans approved on or before the effective date of this Article.
 - (3) A lot for which a building permit has been approved on or before the effective date of this Article.
 - (4) Emergency work to preserve life, limb, or property.
- (d) NPDES Construction Stormwater Permit. All stormwater management plans must comply with the most recent NPDES permit requirements as administered under the Minnesota NPDES

General Stormwater Permit for Construction Activity, Permit Number MN R100001 and all subsequent revisions, except where more specific requirements are contained herein.

- (e) TMDL Allocation Plans. All stormwater management plans must be in compliance with TMDL allocation plans, and other special plans as shall be adopted and amended from time to time.
- (f) Compliance with city plans and permits. All stormwater management plans must be prepared in accordance with the city's Surface Water Management Plan (SWMP), Greenway System Action Plan and the city's current NPDES MS4 Permit.
- (g) The city may waive requirements of this ordinance upon making a finding that compliance with the requirements will involve an unnecessary hardship and the waiver of such requirements will not adversely affect the standards and requirements set forth in this ordinance. The city may require, as a condition of the waiver, such dedication (e.g. land, easement, etc.), construction, or fee in lieu of construction as a contribution to off-site facilities, as may be necessary to adequately meet said standards and requirements.
- (h) The Minnesota Pollution Control Agency's (MPCA's) publications entitled "Protecting Water Quality in Urban Areas" dated 2000 and "State of Minnesota Stormwater Manual" dated November 2005 are hereby adopted and incorporated by reference.
- (i) Definitions
 - (1) *Applicant*. A property owner or agent of a property owner who has filed an application for a stormwater management plan.
 - (2) *Best Management Practice (BMP)*. A stormwater practice that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff. Examples of BMPs can be found in; *Protecting Water Quality in Urban Areas*, Minnesota Pollution Control Agency 2000; *Minnesota Urban Small Sites BMP Manual*, Metropolitan Council 2001; *State of Minnesota Stormwater Manual*, MPCA 2005.
 - (3) *Buffer*. An area of land at or near a streambank, wetland, or water body that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to water quality.
 - (4) *Dedication*. The deliberate appropriation of property by its owner for general public use.
 - (5) *Drainageway*. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
 - (6) *Detention*. The temporary storage of stormwater runoff in a stormwater BMP with the goals of controlling peak discharge rates and providing gravity settling of pollutants.
 - (7) *Easement*. A legal right granted by a landowner to a grantee allowing the use of private land for conveyance or treatment of stormwater runoff and access to stormwater practices.
 - (8) *Impaired Waters*. Those streams, rivers, and lakes that currently do not meet their designated use classification and associated water quality standards under the Clean Water Act.

- (9) *Impervious Cover*. Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.)
- (10) *Infiltration*. The process of percolating stormwater into the subsoil.
- (11) *Infiltration Facility*. Any structure designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.
- (12) *Landowner*. The legal owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
- (13) *Maintenance Agreement*. A legally recorded document that acts as a property deed restriction, and that provides for long-term maintenance of stormwater BMPs or practices.
- (14) *Municipal Separate Storm Sewer System (MS4)*. Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainageways, reservoirs, and other drainage structures.
- (15) *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit*. A permit issued by the EPA or by a state under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.
- (16) *New Development*. Any land development that occurs on previously undeveloped land or land used for agricultural uses.
- (17) *Non-Stormwater Discharge*. Any discharge to the storm drain system that is not composed entirely of stormwater.
- (18) *Non-Structural Practice*. A stormwater control and treatment technique that uses natural processes, restoration, or enhancement of natural systems, or design approaches to control runoff and/or reduce pollutants levels. Such measures are used instead of, or to supplement, structural practices on a land development site. Non-structural measures include, but are not limited to : minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian area, wetlands, and forest; and on-lot practices such as rain barrels, cisterns, and vegetated area that intercept roof and driveway runoff.
- (19) *Nonpoint Source Pollution*. Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.
- (20) *Off-Site Facility*. A stormwater BMP located outside the subject property boundary described in the stormwater management plan.
- (21) *On-Site Facility*. A stormwater BMP located within the subject property boundary described in the stormwater management plan.

- (22) *Owner*. Includes fee owner, contract purchaser, and lessee for whom construction is being undertaken.
- (23) *Redevelopment/expansion*. Land development that occurs within designated areas based on local land use where the surrounding area is generally developed, and where the site is either vacant or has previously been used or developed.
- (24) *Regional Facility*. Stormwater BMPs designed to control and treat stormwater runoff from multiple properties or a particular land use district, and where the developers of the individual properties may participate in the provision of land, financing, design, construction, and/or maintenance of the facility.
- (25) *Responsible Party*. Any individual, partnership, co-partnership, firm, company, association, or any other legal entity; or their legal representatives, agents, or assigns that is name on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPS.
- (26) *Stop Work Order*. An order issued by the city that requires that all construction activity on a site be stopped.
- (27) *Stormwater Availability Charge (SWAC)*. A payment of money in place of meeting all or part of the stormwater performance standards required by this ordinance where site conditions prevent on-site mitigation.
- (28) *Stormwater Management*. The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.
- (29) *Stormwater Runoff*. Flow on the surface of the ground, resulting from precipitation.
- (30) *Structural Practice*. An engineered physical device designed and constructed to trap or filter pollutants from runoff, or reduce runoff velocities.
- (31) *Water Resources*. Water resources include ground water, surface water bodies (rivers, creeks, wetlands) and their riparian buffers, and stormwater management facilities and their established vegetative buffers.

Section 22-301. – Application, review and approval process

- (a) No building permit, grading permit, erosion and sediment control permit, site plan approval or subdivision approval shall be issued until the city has approved a required stormwater management plan. A stormwater management plan application shall be made on a form provided by the city and shall include all accompanying documents required by the city. Approval of a stormwater management plan does not exempt the applicant from the requirements and permitting authority of other agencies having jurisdiction over the work performed nor from other permitting processes required by the city. The process and requirements for approval of a stormwater management plan are specified below:
 - (1) Site Plan.

- a. Application. The submittal requirements listed herein shall be submitted with an application for a site plan review.
 - b. Stormwater management plan. The plan shall be prepared by a licensed professional engineer or other professional acceptable to the city.
 - c. Application fee. A fee shall be paid by the applicant. The fee shall cover the costs of application review and all routine inspections for monitoring compliance and enforcement. Any inspections and administration of the application triggered by a correction notice are not included in this fee. The amount of the fee shall be set by city council resolution from time to time.
 - d. Escrow deposit or financial security. The city shall require financial security in such form and amounts as deemed necessary to assure that the work, if not completed in accordance with the reviewed plans and specifications, will be corrected to eliminate conditions posing a danger to public health, safety and welfare, adjacent property and the environment. The security shall be in the form of a surety bond, cash bond, or an irrevocable letter of credit. The financial security must be in place prior to any work. The amount of financial security required will be calculated based on the work detailed in the plans and specifications. The city may require a portion of the security to be provided as a cash escrow based on the proposed work. The applicant may be required to maintain the escrow at a minimum amount set by the city.
 - e. Application review. The city's development review committee shall review the application for completeness and compliance with standards as part of the site plan review. City staff may request changes or additional information from the applicant.
 - f. Reviewed plans. If the plans meet the performance standards and requirements of this Ordinance, the city shall endorse in writing or stamp on the plans "Reviewed." However, construction activities may begin only upon approval of the site plan review application. Such reviewed plans shall not be changed or deviated from by the applicant without authorization from the city. One set of reviewed plans shall be returned to the applicant, and that set shall be kept on the project site at all times during which the authorized work is in progress.
- (2) Platted development.
- a. Application. The submittal requirements listed herein shall be submitted with applications for preliminary and final plat.
 - b. Stormwater management plan. The plan shall be prepared by a licensed professional engineer or other professional acceptable to the city.
 - c. Application fee. A fee shall be paid by the applicant. The fee shall cover application review and all routine inspections for monitoring compliance and enforcement. Any inspections and administration of the application triggered by a correction notice are not included in this fee. The amount of the fee shall be set by city council resolution from time to time.
 - d. Escrow deposit or financial security. The city shall require financial security in such form and amounts as deemed necessary to assure that he work, if not completed in

accordance with the reviewed plans and specifications, will be corrected to eliminate conditions posing a danger to public health, safety and welfare, adjacent property and the environment. The security shall be in the form of a surety bond, cash bond, or an irrevocable letter of credit. The financial security must be in place prior to any work. The amount of financial security required will be calculated based on the work detailed in the plans and specifications. The city may require a portion of the security to be provided as a cash escrow based on the proposed work. The applicant may be required to maintain the escrow at a minimum amount set by the city.

- e. Application review. The city's development review committee shall review the application for completeness and compliance with standards as part of preliminary and final plat review. City staff may request changes or additional information from the applicant.
- f. Reviewed plans. If the plans meet the performance standards and requirements of this Ordinance, the city shall endorse in writing or stamp on the plans "Reviewed" at time of final plat review. However, construction activities may begin only upon approval of the final plat application. Such reviewed plans shall not be changed or deviated from by the applicant without authorization from the city. One set of reviewed plans shall be returned to the applicant, and that set shall be kept on the project site at all times during which the authorized work is in progress.

Section 22-302. – Post-Construction Performance Standards for Stormwater Management

(a) Water Quality Criteria

- (1) Best management practices shall be implemented that reduce the total suspended solids load by ninety (90) percent, and the phosphorus load by sixty (60) percent from the runoff generated by the 2-year, 24-hour event for the developed site as a whole, as compared to runoff management controls. These standards may be met through the runoff volume reduction criteria below (subsection (c) of this section). If the criteria are met through ponding, the following guidelines for the design of wet detention basins shall be followed:
 - a. A permanent pool ("dead storage") volume below the principal spillway (normal outlet) which shall be greater than or equal to the runoff from a 2.5-inch storm over the entire contributing drainage area assuming full development.
 - b. A permanent pool average depth (basin volume/basin area) which shall be ≥ 4 feet, with a maximum depth of ≤ 10 feet.
 - c. Basin side slopes above the normal water level should be no steeper than 3:1, and preferably flatter. A basin shelf with a minimum width of 10 feet and 1 foot deep below the normal water level is recommended to enhance wildlife habitat, reduce potential safety hazards, and improve access for long-term maintenance.
 - d. The pond should be wedge shaped with the inlet at the narrowest end and the outlet at the widest end. A length to width ration of 3:1 or greater shall be used whenever possible. Distance between outfalls and outlets should be maximized.
 - e. Skimmers or other similar devices are required on pond outlets. Designs shall provide for skimmers that extend a minimum of 4 inches below the water surface and minimize

the velocities of water passing under the skimmer to less than 0.5 feet per second for the 1-year 24-hour event.

- f. Side slopes shall be seeded with native seed mix appropriate to the site conditions. Upland buffers on side slopes are required. Buffers shall include a mixture of deciduous and coniferous shrubs and include access for pond maintenance. Trees are encouraged as part of the upland buffer. Buffers shall be designed to provide maintenance access to the facility.
 - g. The applicant shall provide the city with a two year warranty on all vegetation to ensure plant establishment and survival.
 - h. Pond designs that incorporate filtered bottom withdrawal, vegetated swale discharges, or constructed wetland treatment cells to limit temperature increases are encouraged.
 - i. Pond designs that incorporate tree shading to limit future temperature increases are encouraged.
- (2) Infiltration/filtration methods, described under runoff volume control are the preferred approach to satisfying the water quality treatment requirements in all areas of the city where practical and subject to the limitations of (c) (4) below. Infiltration/filtration methods described under runoff volume control are the required approach to satisfying the water quality treatment requirements in areas that drain to Rice Creek and its tributaries.
- (3) For all projects, street catch basins must have a three (3) foot sump.

(b) Runoff Rate Control Criteria

- (1) Expansion/redevelopment projects. For the 2-year, 10-year, and 100-year 24-hour SCS Type II storm events and the 100-year 10-day snowmelt event (Table 1), the proposed post development runoff rate must not exceed the existing conditions runoff rate at all points leaving the site. The city may reduce or waive the need for expanded on-site improvements if downstream facilities can accommodate the additional rate increase. In flood prone areas and landlocked subwatersheds, greater restrictions may apply. Pervious curve numbers shown in Table 3 shall be used for existing and new turf grass.
- (2) All new development in the City and any development in the Rice Creek Subwatershed. For the 2-year, 10-year and 100-year 24-hour SCS Type II storm events and the 100-year 10-day snowmelt event (Table 1), the proposed post development runoff rate must not exceed the rate for pre-settlement conditions. Pre-settlement conditions shall be defined as the estimated land cover in the area before European settlement as determined by historic topographic and photographic data. Runoff curve numbers shown in Table 2 shall be used for determining presettlement conditions. In flood prone areas and landlocked subwatersheds, greater restrictions may apply. Pervious curve numbers shown in Table 3 shall be used for existing and new turf grass.

Table 1. Precipitation for different storm events

SCS Type II 24-hour storm event	Precipitation
1-Year	2.3 inches
2-Year	2.8 inches
10-Year	4.25 inches
100-Year	6.1 inches
SCS Type II 10-day snow melt	
100- year 10-day snow melt	7.05 inches

Table 2. Runoff curve numbers for pre-settlement “Prairie” conditions

Hydrologic Soil group	A	B	C	D
Runoff Curve Number	30	58	71	78

Table3: SCS Pervious Curve Numbers for Turf Grass

Hydrologic Soil group	A	B	C	D
Runoff Curve Number	61*	61	74	77

*Curve number of 61 is used for both A and B soils to reflect the standard landscaping practice of placing loamy soils on top of compacted subgrade in preparation for the placement of turf grass.

- (4) The stormwater system must be designed to provide discharge capacity or level of service for the following system components. The city may allow variance to these standards if regional ponding systems are located downstream.
 - Local storm sewer – 5-year event
 - Trunk storm sewer – 10-year event
 - Storm ponds, pipe and drainageways connecting ponds, and open channels – 100-year event.
- (5) For stormwater collection systems not designed to meet rate control standards (e.g. catch basins), a clogging factor of 50% will be used to size intake structures
- (6) No orifice having a diameter less than eight inches is allowed in the design of rate control structures within the city. If a structure having an opening less than 8 inches is required to meet rate control requirements, the required rate control for a site will be increased to allow a rate consistent with an opening of this size.
- (7) An emergency spillway or outlet from ponding areas shall be installed at a minimum of one foot below the lowest building opening and shall be designed to have a capacity to overflow water at an elevation below the lowest building opening at a rate not less than three times the 100-year peak discharge rate from the basin or the anticipated 100-year peak inflow rate to the basin, whichever is higher. A narrative shall be submitted describing the secondary flow paths for events larger than the 100-year event.

(c) Runoff Volume Control Criteria

- (1) New development and expansion/redevelopment projects. Projects must infiltrate the first 0.75 inches of runoff from impervious surfaces.
- (2) Rice Creek subwatershed. For the 2-year 24-hour SCS Type II event (Table 1), the proposed post development runoff volume must not exceed the presettlement conditions runoff volume at all points where runoff leaves the site. Infiltration/filtration basins must be setback at least 300 feet from the centerline of Rice Creek to minimize thermal impacts to groundwater and Rice Creek.
- (3) When designing infiltration for volume control, on-site testing and detailed analyses are strongly encouraged in order to determine the infiltration rates of the proposed infiltration facility. Documented site-specific infiltration or hydraulic conductivity measurements completed by a licensed soil scientist or engineer is required for all regional infiltration facilities, which are defined as infiltration facilities with proposed drainage areas greater than two acres or with proposed drainage areas with 0.7 acres or more of impervious surfaces. In the absence of a detailed analysis, the saturated infiltration rates listed in Table 4 must be used. A soil boring with blow counts is required at the location of a proposed regional infiltration facility. The soil boring is required to go to depth of at least five feet below the proposed bottom of the infiltration facility. If bedrock is suspected, the soil boring must go to a depth of at least ten feet below the proposed bottom of the infiltration facility. The soils must be classified using the Unified Soil Classification system. The least permeable soil horizon will dictate the infiltration rate. Infiltration practices shall be designed to infiltrate the required runoff volume within 24 hours within the Rice Creek Subwatershed and 72 hours for any development elsewhere in the City.

Table 4. Hydrologic soil groups and saturated infiltration rate

Hydrologic Soil group	A	B	C	D
Saturated infiltration rate (inches per hour)	0.50	0.25	0.10*	0.01*

* Infiltration is not allowed in C and D soils without soil corrections

- (4) The following standards apply to infiltration facilities or practices:
 - a. Pretreatment of stormwater runoff is required to protect the infiltration systems from clogging with sediment and to protect ground water quality.
 - b. Must conform to the minimum setbacks required by the Minnesota Department of Health.
 - c. Cannot be used within fifty feet (50') of a municipal, community, or private well unless specifically allowed by an approved wellhead protection plan.
 - d. Cannot be used on areas with less than three feet (3') vertical separation from the bottom of the infiltration system and the seasonal high water table or bedrock, or 10 feet where fractured bedrock is present.
 - e. Cannot be used for runoff from fueling and vehicle maintenance areas and industrial areas with exposed materials posing contamination risk.

- f. Cannot be used in type C and D soils without soil corrections.
- (5) Where achieving volume control standards through infiltration is not possible due to site limitations (see immediately preceding subsection), or where space limits opportunities for site redevelopment and expansion, the following steps will be considered in order of decreasing preference and approved by the City Engineer:
- a. Modifications to the site design to incorporate additional LID or “better site design” practices as described in the Minnesota Stormwater Manual, to the extent practical.
 - b. Use of filtration practices.
 - c. Opportunities for storage and reuse of water on-site.
 - d. Purchase of volume-control capacity in a city owned facility through the payment of a Stormwater Availability Charge (SWAC) in lieu of on-site volume control measures.
- (d) General Performance Standards
- (1) All stormwater treatment must be designed to address the actual amount of impervious surface or the following impervious surface coverage amounts for the entire development site, whichever is higher.
 - a. Residential lots (1 or 2 dwelling units) – 40%
 - b. Commercial and Industrial lots – 85%
 - c. All plats in the Rice Creek Watershed – 65%
 - (2) Unless superseded by the City’s requirements, stormwater management practices shall be designed according to the most current technology as reflected in the MPCA publication “Minnesota Stormwater Manual,” as supplemented and amended from time to time.
 - (3) The natural surface water drainage system shall be used as far as is feasible for storage and flow of runoff. All stormwater diversion discharged to natural waterways must meet the performance standards in section 22-302.
 - (4) All structural or engineered stormwater treatment facilities shall be located in an outlot or in a drainage and utility easement dedicated to the city. Facilities may be located within the right of way at the city’s discretion. Access of sufficient size shall be provided to each treatment facility to perform maintenance activities identified in the maintenance plan.
 - (5) Subdivision design shall be consistent with limitations presented by steep slopes. Subdivisions shall be designed so that no construction or grading will be conducted on slopes steeper than 12 percent (12%) in grade unless it can be demonstrated through satisfactory design that the area can be built upon without problems with soil erosion or danger from slides.
 - (6) All applicants shall submit as-built plans for all structural or engineered facilities at project completion. The plans must show the final design specifications for all facilities. Plans

must certify that the facilities meet the performance standards and be signed by a registered professional engineer.

- (7) Stormwater management plans must show construction staging and specifically address measures to preserve the infiltration capacity of proposed infiltration facilities to ensure that the performance of such facilities are not impaired at the conclusion of construction. Plans shall also demonstrate methods of staging construction to minimize soil compaction of landscaped areas during construction. Soil testing and decompaction may be required if site construction activities negatively impact soil permeability.
- (8) A planted vegetated buffer width of 50 feet shall be established and maintained around all wetlands, stormwater ponds and infiltration/filtration facilities. Buffers shall be measured perpendicular from the high water level of a constructed facility or the delineated wetland edge, and shall be provided and maintained at all times. Monuments/signs shall be located to delineate the buffer. The monuments/signs should be placed at an interval of approximately 100 feet and at locations where the buffer line deviates by more than 30 degrees. The signs should conform to local standards and be at least four feet high, made of non-degradable material, and minimally contain the words: Buffer – Do Not Mow or Fill. Contact City of Northfield for Further Information
- (9) No fences, structures or other impediments shall be constructed across the natural or constructed waterway that will reduce or restrict the flow of water. Fences, structures or other impediments or other structures built within drainage easements are placed at the owner's risk.

Section 22-303. – Flood Control

- (a) The lowest floor elevation of any structure shall be at least two feet above the elevation of the highest known historic high groundwater elevations.
- (b) The lowest floor elevation of any structure shall be at least two feet above the 100-year surface water flood elevation for the area
- (c) Delineation of the 100-year flood is required in all areas mapped as "A" on the FEMA Flood Insurance Rate Map.

Section 22-304. – Shoreland Areas

- (a) The following standards apply to development in shoreland areas as defined by the Shoreland Overlay District:
 - (1) For any project, runoff from parking areas with 10 or more spaces or in excess of 3,000 square feet must meet the water quality criteria of Section 22-302 subsection (a). Treatment of runoff through volume reduction and infiltration practices is encouraged.

- (2) For any new development or redevelopment/expansion project an undisturbed vegetative buffer of not less than 50 feet from the water body shall be maintained. For projects adjacent to the Cannon River, an undisturbed vegetative buffer of not less than 100 feet shall be maintained and for projects adjacent to Rice Creek, an undisturbed vegetative buffer of not less than 300 feet shall be maintained. Buffers shall be measured perpendicular from the edge of water on each side of the water body and shall be provided and maintained at all times for all permitted activities adjacent to the water body. Within the undisturbed buffer, vegetation shall not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, each as approved by the City or when implemented pursuant to a written agreement executed with the City. No new private structure or impervious surface shall be placed within a buffer. No fill, debris or other material shall be excavated from or placed within a buffer. Exceptions for areas such as water crossings, limited water access and restoration of the buffer are allowed if the exceptions are documented in the stormwater management plan application. Replacement of existing impervious surface within the buffer is allowed.

Section 22-305. – Low Impact Development

- (a) Low impact development (LID) practices are preferred for all projects to the greatest extent reasonable, subject to the limitations described in Section 22-302 subsection (c) (4). The city encourages the following LID or better site design practices as described in the Minnesota Stormwater Manual where they do not conflict with the requirements of this ordinance
 - (1) Better site design practices:
 - a. Natural area conservation
 - b. Site restoration to prairie or forest
 - c. Stream and shoreline buffers
 - d. Disconnection of impervious cover
 - e. Roof top disconnection
 - f. Use of grass channels for conveyance
 - g. Reduction of impervious surfaces
 - h. Use of trees to shade impervious surfaces
 - (2) Engineered or structural practices
 - a. Bioretention
 - b. Infiltration
 - c. Filtration

Section 22-306. – Maintenance Agreement and Maintenance Plan for Private Stormwater Management Facilities

- (a) During the application process, the applicant and the City shall determine which party will be responsible for stormwater facility ownership and long term maintenance responsibilities.

- (b) If the applicant is determined to have ownership and maintenance responsibilities, the applicant and city shall enter into an Agreement that documents all responsibilities for operation and maintenance of all stormwater practices. Such responsibility shall be documented in a maintenance plan and executed through an Agreement. The Agreement shall be executed and recorded with the parcel.
- (c) The stormwater maintenance agreement shall be in a form approved by the city, and shall, at a minimum:
 - (1) Designate the owner or other responsible party which shall be permanently responsible for maintenance of the structural or nonstructural measures.
 - (2) Pass responsibility for such maintenance to successors in title.
 - (3) Grant the city and its representatives the right of entry for the purposes of inspecting all stormwater measures at reasonable times and in a reasonable manner. This includes the right to enter a property when the city has a reasonable basis to believe that a violation of this Ordinance or maintenance agreement is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction and enforcement of a violation of this Ordinance or agreement.
 - (4) Allow the city to repair and maintain the facility, if after proper and reasonable notice by the city to the owner of the facility. The Agreement shall permit the city to certify the costs of the maintenance/correction to the taxes for the subject property.
 - (5) Include a maintenance plan that contains, but is not limited to the following:
 - a. Identification of all structural stormwater practices.
 - b. A schedule for regular inspection, monitoring, and maintenance for each practice. Monitoring shall verify whether or not the practice is functioning as designed and may include, but is not limited to quality, temperature, and quantity of runoff.
 - c. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each practice.
 - (6) Identify a schedule and format for reporting compliance with the maintenance plan to the city.

Section 22.307. – Application submittal requirements

- (a) Project narrative describing stormwater management objectives, site conditions and how the proposed practices will address objectives and the requirements of this ordinance.
- (b) Plans showing existing and post development conditions
- (c) All calculations demonstrating compliance with the requirements of this ordinance
- (d) All other data, plans, and figures required by the city (see checklist provided by the City).

Section 22.308. – Enforcement by legal or administrative action

- (a) Any action or inaction which violates the provisions of the Ordinance, the requirements of an approved stormwater management plan, and/or the requirements of a development agreement shall be a misdemeanor, and each day during which any violation is committed, continued or permitted, shall constitute a separate offense.
- (b) Violation of any provisions of this division may be enforced by civil action including an action for injunctive relief and by any administrative penalties approved by the city.

Section 22-309 to 22-349 – Reserved

DIVISION 3. – ILLICIT DISCHARGE AND ILLEGAL CONNECTION TO THE STORMWATER SYSTEM

Section 22-350. – Purpose, scope and definitions

- (a) The purpose of this division is to comply with the requirements of the city’s NPDES permit, the federal clean water act, and to provide for public health, safety, and general welfare by regulating non-stormwater discharges to the city’s stormwater, storm sewer/drain system.
- (b) This ordinance applies to all water directly or indirectly entering the stormwater system (MS4), which is generated on any developed or undeveloped lands unless explicitly exempted. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health, safety or the environment shall control.
- (c) Definitions.
 - (1) *Accidental Discharge.* A discharge prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.
 - (2) *Illicit Discharge.* Any direct or indirect non-stormwater discharge to the MS4 system, except as otherwise exempted in this ordinance.
 - (3) *Illegal Connection.* Either,
 - a. Any pipe, open channel, 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 conveyances, which allow any non-stormwater discharge including sewage, process wastewater, or wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - b. Any pipe, open channel, drain or conveyance connected to the MS4 system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
 - (4) *Municipal Separate Storm Sewer System (MS4).* Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainageways, reservoirs, and other drainage structures.
 - (5) *National Pollutant Discharge Elimination System (NPDES).* Stormwater Discharge Permit. A permit issued by the EPA or by a state under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

- (6) *Non-Stormwater Discharge.* Any discharge to the storm drain system that is not composed entirely of stormwater.
- (7) *Pollutant.* Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents; degreasers; cleaning chemicals; hazardous wastes; liquid and solid wastes; refuse, rubbish, garbage, grass clippings, litter, or other discarded or abandoned objects and accumulations; pesticides, herbicides, and fertilizers; and sewage.
- (8) *Stormwater Runoff.* Flow on the surface of the ground, resulting from precipitation.

Section 22-351. – Prohibition of illicit or illegal discharges

- (a) No person shall cause an illicit discharge or otherwise allow an illicit discharge into the storm sewer system, and no person shall throw, drain or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the storm sewer system any pollutants or waters containing any pollutants, other than stormwater.
- (b) The following discharges are exempt from the prohibition provisions above:
 - (1) Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, air conditioner condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollution.
 - (2) Foundation or footing drains, crawl space pumps except where indoor contamination is likely
 - (3) Discharges or flows from fire fighting, and other discharges specified by the city as being necessary to protect public health and safety.
 - (4) Any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the Minnesota Pollution Control Agency and/or the Federal Environmental Protection Agency, provided that the discharge 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 MS4.
- (c) No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the state, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Waste deposited in streets in proper receptacles for the purposes of collection is exempted from this prohibition.

Section 22-352. – Prohibition of illegal connections

- (a) The construction, connection, use, maintenance or continued existence of any illegal connection to the MS4 is prohibited. This prohibition expressly includes, without limitation, illegal

connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (b) A person violates this ordinance if the person connects a line conveying non-stormwater or pollutants to the MS4 or allows such a connection to continue.
- (c) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval by the city.
- (d) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the MS4, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the city requiring that such locating be completed.

Section 22-353. – Notification of accidental discharges and spills

- (a) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity, or operation has information of any known or suspected release of pollutants or non-stormwater discharges from the facility or operation into the MS4, surface or ground waters, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge. Said person shall notify the city public works director or his or her designee immediately and in no event later than 24 hours of the nature, quantity and time of occurrence of the discharge.
- (b) In the event of such release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.
- (c) Failure to provide notification of a release as provided above is a violation of this ordinance.

Section 22-354. – Right of entry, access and inspection of properties and facilities

- (a) The city through its public works director or his or her designee shall be entitled and permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance. If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the city. Any temporary or permanent obstruction to safe and easy access to the area to be inspected or sampled shall be promptly removed by the discharger at the request of the public work director or his or her designee and shall not be replaced.
- (b) The owner or operator shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, visual recording, examination and copying of any records needed to determine compliance with this ordinance that must be maintained in accordance with the ordinance, permit or required by state or federal law.
- (c) Unreasonable delays in allowing the city access to a facility is a violation of this ordinance.
- (d) The public works director or his or designee may require the discharger to install monitoring equipment or other such devices as are necessary in his or her opinion to conduct monitoring or sampling of the premises' stormwater discharge. The monitoring equipment must be maintained

by the discharger in a safe and proper operating condition at all times. All devices used to measure stormwater flow and quality must be calibrated in order to ensure their accuracy.

- (e) Administrative search warrant. If the public works director or his or her designee has been refused access to any part of the premises from which stormwater is being discharged, and he or she is able to demonstrate probable cause to believe there may be a violation of this article, or that there is a need to inspect, test, examine or sample as part of a routine program designed to verify compliance with this section or any order issued hereunder, or to protect the overall public health, safety and welfare, then the city may seek issuance of an administrative search warrant from any court of competent jurisdiction.

Section 22-355. – Suspension of Storm Sewer System Access

- (a) Suspension due to illicit discharges in emergency situations. The City may, without prior notice, suspend storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm sewer system or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the storm sewer system or waters of the state, or to minimize danger to persons.
- (b) Suspension due to the detection of illicit discharge. Any person(s) discharging to the storm sewer system in violation of this section may have their storm sewer system access terminated if such termination would abate or reduce an illicit discharge. A person commits an offense if the person reinstates storm sewer system access to premises terminated pursuant to this section, without the prior approval of the City.

Section 22-356. – Enforcement by legal or administrative action

- (a) Notice of violation. Whenever the city finds that a violation of this ordinance has occurred, the city may order compliance by providing written notice of violation to the responsible person. Such notice must include the following information:
 - (1) The name and address of the alleged violator;
 - (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action; and
 - (5) A statement of the actions that will be taken by the city if there is no compliance with the order.
- (b) Remedial measures. The city may order remedial measures including without limitation:
 - (1) The performance of monitoring, analyses and reporting;
 - (2) The elimination of illegal connections or illicit discharges;

- (3) Discharges, practices, or operations in violation of this section to cease and desist;
 - (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
 - (5) The implementation of source control or treatment BMPs.
- (c) If abatement of a violation or restoration of affected property is required, the order or notice shall set forth a deadline within which such remediation or restoration must be completed. Said order or notice shall further advise that, should the offending party fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof may be charged to the violator.
- (d) Emergency cease and desist orders. When the city finds that any person has violated, or continues to violate, any provision of this ordinance, or any order or notice issued hereunder, or that the person's past violation is likely to reoccur, and that the violation has caused or has contributed to an actual or threatened discharge to the storm drain system or waters of the state which reasonably appears to present an imminent or substantial endangerment to the public health, safety or welfare or to the environment, the city may issue an emergency cease and desist order in lieu of a notice of violation to the violator or other action directing him or her to:
- (1) Immediately comply and stop or eliminate the endangering discharge;
 - (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including, but not limited to, immediately halting operations or terminating the discharge; and
 - (3) Immediately comply with all requirements of this ordinance and other applicable laws and regulations.

In the event of a person's failure to immediately comply with the emergency cease and desist order, the city may take such steps as deemed necessary to prevent or minimize harm to the storm drain system or waters of the state, or endangerment to persons or to the environment, including immediately terminating the facility's water supply, sewer connection, or other municipal utility services. The city may allow the person to recommence the discharge activities when he or she has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless further termination proceedings are initiated against the person under this article. A person that is found by the city to be responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence to the Minnesota Pollution Control Agency within thirty (30) days of receipt of the emergency cease and desist order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, the city taking any other action against the violator.

In the event that a violation or suspected violation occurs which constitutes an immediate danger to public health and safety, the city is authorized to, in lieu of an emergency cease and desist order or notice of violation, enter upon the subject property without giving prior notice, to take any and all measures necessary to abate the violation and preserve public health and safety.

- (e) In the event that the abatement or restoration work is performed by the city, the city may charge the violator for its costs and expenses associated with the work. If the bill received for abatement

or restoration is not paid within 30 days, the city may draw the amount of the bill from any financial guarantees or security that the city may be holding or may certify the amount to the county for collection with the property taxes.

- (f) Violation of any provision of this division may be enforced by civil action including an action for injunctive relief and by any administrative penalties approved by the city. 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 or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.
- (g) Violation of any provision of this division shall be a misdemeanor, and each day during which any violation is committed, continued or permitted, shall constitute a separate offense.

Section 22-357. – Appeal

- (a) Administrative decisions and enforcement actions by city staff may be appealed by the applicant to the city administrator as follows:
 - (1) The appeal must be filed in writing with the city clerk within ten business days of the date of the decision or enforcement action.
 - (2) The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.
 - (3) The enforcement officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.
 - (4) The city clerk shall notify the applicant and the enforcement officer by ordinary mail, of the date, time and place for the hearing. The hearing shall be scheduled for a date not less than four or more than 20 days after the filing of the appeal.
 - (5) The city administrator shall hear and render a decision on the appeal after the hearing. The decision shall be in writing and shall state the reasons for the decision. The city clerk shall notify the applicant and the enforcement officer by mail of the decision.
- (b) The applicant may appeal a decision of the city administrator to the city council, by written notice of appeal filed with the city clerk. Such appeal shall be filed within ten business days of the date of the administrator's decision. The decision of the city administrator shall remain in effect pending appeal to the city council, unless otherwise directed by the city council. The city council, in its sole discretion, may agree to hear the appeal and make a final decision or may decline to hear the appeal, in which case the decision of the city administrator shall be final.

Passed by the City Council of the City of Northfield this 7th day of September, 2010.

ATTEST:

Deb Little

Mary Rossing

City Clerk

Mayor

VOTE: _Y_ ROSSING _Y_ BUCKHEIT _Y_ DENISON _Y_ POKORNEY
 Y POWNELL _Y_ VOHS _Y_ ZWEIFEL

First reading: 08-17-10

Second reading: 09-07-10

Published: 09-11-10