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**CITY OF ANOKA, MINNESOTA
ORDINANCE**

ORD-2023-1782

**AN ORDINANCE AMENDING CHAPTER 30 ENVIRONMENT, ARTICLE V
SURFACE WATER MANAGEMENT, SECTION 30-100 LAND DISTURBANCE
PERMIT AND EROSION CONTROL PLAN OF THE CODE OF THE CITY OF
ANOKA MINNESOTA**

THE COUNCIL OF THE CITY OF ANOKA ORDAINS:

- Section 1. Pursuant to Minnesota Law, the Anoka City Charter and the Anoka City Code, and upon a review conducted by City staff, amendment to Chapter 30 Environment, Article V, Surface Water Management, Section 30-100 Land Disturbance Permit and Erosion Control Plan is hereby adopted, by an affirmative vote of a majority of the Anoka City Councilmembers present, to read with stricken text deleted and underlined, italicized text inserted into existing city code.
- Section 2. This Ordinance shall be in full force and effective upon passage and seven (7) days after publication.

ATTEST:

Introduced: 10-16-2023

Adopted: 11-20-2023

Published: Summer Publication 12-01-2023

Effective: 12-08-2023

Phil Rice, Mayor

Amy Oehlers, City Clerk

	Aye	Nay	Abstain	Absent
Rice	<u>X</u>	_____	_____	_____
Scott	<u>X</u>	_____	_____	_____
Weaver	<u>X</u>	_____	_____	_____
Wesp	<u>X</u>	_____	_____	_____
Skogquist	<u>X</u>	_____	_____	_____

ARTICLE V. SURFACE WATER MANAGEMENT

Sec. 30-100. Land disturbance permit (LDP) and erosion control plan.

- (a) *Permit required.* An LDP shall be required before any land disturbing activity occurs in connection with any of the following:
- (1) Projects with land disturbance of 10,000 square feet or more in size;
 - (2) Any land disturbing activity that changes the existing or natural contour of the land which affects drainage or natural resources, such as slopes, trees or water bodies; and
 - (3) Any alteration of land that changes the elevation by more than five feet from the existing contour of the ground on any contiguous 1,000 or more square feet of ground.
- (b) *Exemptions.* The following shall be exempt from the provisions of this section:
- (1) Minimal land disturbing activities such as house gardens and individual home landscaping, repairs, maintenance work and other related activities;
 - (2) Excavation or grading for agricultural purposes located no closer than 300 feet from any edge or delineated boundary of any water body;
 - (3) Below finished grade elevations for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit;
 - (4) Excavations for wells, tunnels or utilities;
 - (5) Exploratory excavations under the direction of soil engineers or engineering geologists;
 - (6) Individual service connections;
 - (7) Installation of posts or poles;
 - (8) Emergency work and emergency repairs;
 - (9) Road reconstruction ~~that does not increase impervious area by more than one acre~~ in which the sum of the new and fully reconstructed impervious surface is less than one (1) acre or and the project does not drainage patterns;
 - (10) Utility construction/reconstruction within the road right-of-way;
 - (11) Road milling/overlay, demolition, and routine vegetation management activities;
 - (12) Land disturbing activities that require a permit from the watershed management organization, and the permit has been granted, shall not be required to submit a land disturbance and erosion control plan or obtain a separate land disturbance permit from the city.
- (c) *Approval standards.*
- (1) *Surface water management plan.* All construction, land disturbing activity and development shall comply with the city's surface water management plan. All persons performing any grading operations shall put into effect all safety precautions which are necessary in the opinion of the engineering department and provide adequate erosion and sediment control as per the NPDES program, including anti-erosion or drainage devices, debris basins, silt fence or other safety devices to protect the life, limb, health, and welfare and private and public property of others from damage of any kind.
 - (2) *Compliance with Minnesota Wetland Conservation Act.* No approval to allow wetland disturbing activities shall be issued until approval of a wetland replacement plan or a certificate of exemption has

been obtained in compliance with the provisions of this section and the Minnesota Wetland Conservation Act of 1999 (codified predominantly as M.S.A. § 103G.222 et seq.).

- (3) *Erosion and sediment control standards.* Every applicant for an LDP must adhere to erosion and sediment control standards and specifications as published by the MPCA or as approved by the city.
- (4) *Tree preservation.* Removal or loss of significant trees shall be in accordance with section 78-563.
- (5) *City plans and ordinances.* Every applicant for an LDP shall comply with all applicable adopted city plans and ordinances.
- (d) *Permit application.* The application for an LDP shall be made in writing to the city on such form as the city may, from time to time, designate. The application shall include two copies of the submittal materials and e-mail an electronic copy to: publicservices@ci.anoka.mn.us.
- (e) *Fees.* The processing and approval fee shall be as provided in the city fee schedule. In addition, the applicant will be responsible for all reasonable costs incurred by the city in review of the proposed plan. Fees may vary based on the complexity of the plan review process.
- (f) *Submittal.* Any application for an LDP shall be submitted to the city with required fees. All applications shall also include the following information:
 - (1) An LDECP that indicates compliance with this section, including:
 - a. *Erosion and sedimentation controls.*
 - 1. Identification and use of the best management practices for temporary erosion and sedimentation control, including, but not limited to, perimeter erosion control devices, including, but not limited to, silt fencing; phased grading; temporary seeding; rock construction entrance; storm drain inlet protection devices; 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; sediment basins and flow diversions; and any other erosion control and sedimentation device deemed necessary by the city.
 - 2. Identification of all permanent erosion control measures and a completion schedule.
 - 3. Stabilization of all exposed soil within seven days after construction activity has ceased in areas adjacent to surface water. All other areas require stabilization within 14 days after construction activity has ceased.
 - b. *Drainage and grading.*
 - 1. Identification of all measures to protect water bodies and wetland areas.
 - 2. If applicable, the plans must be consistent with any approved subdivision grading plan.
 - 3. Methods of controlling dust.
 - 4. Plans for controlling site runoff.
 - 5. The plan shall not adversely impact neighboring properties.
 - 6. The plan shall minimize any irreparable adverse impacts to natural resources upon the subject property.
 - 7. The plan shall provide for and include any of the following temporary safety requirements if the city determines that all, or a combination thereof, of the following requirements are necessary for the protection of public safety, health and welfare:
 - (i) Any slope of 3:1 or greater that is adjacent to a project property line and which is deemed dangerous by the city must be properly fenced;

- (ii) Banks, fill, or any depression or mound must be sloped or leveled off or otherwise placed in such condition at any time as not to be dangerous because of sliding or caving banks, and so as to minimize or stop erosion or dust during or after the grading operation; and
 - (iii) Any graded or ungraded area must be properly drained at a minimum slope of two percent, filled, or leveled off so as to make the same safe and healthful, unless otherwise approved by the city.
 - (iv) The plan must include proper waste controls for solid and hazardous wastes per the NPDES permit. Designated concrete washout areas shall be required for all construction sites in which on-site concrete washout is proposed.
 - (v) Positive drainage at a minimum of two percent from all structures and low points.
- c. *Stormwater standards.* A stormwater plan must be prepared, incorporating the following:
1. The post-development peak discharge rates must be the same or lower than the pre-development peak discharge rates for the two-year, ten-year, and 100-year return frequency storm events.
 2. Volume reduction practices to retain the water quality volume must be considered first when designing the permanent stormwater system on any project where the sum of the new and fully reconstructed impervious surface equals one or more acres. In situations where infiltration is prohibited, other volume reduction practices, a wet sedimentation basin, or filtration basin may be considered. For new development projects with land disturbances greater than or equal to one acre, a volume of one inch of runoff from all impervious surfaces on the site shall be infiltrated on-site.
 3. For redevelopment projects with land disturbances greater than or equal to one acre, a volume of one inch of runoff from the new impervious surfaces on the site shall be infiltrated on-site. In cases of redevelopment in which greater than 50 percent of the project area (as defined by the LRRWMO) is disturbed, a volume of one inch from all impervious surfaces shall be infiltrated on-site. The water quality volume (excluding linear projects) must be calculated as one (1) inch times the sum of the new and fully reconstructed impervious surface.
 4. The use of infiltration for site shall be prohibited when the system would be constructed in areas :
 - (i) That receive discharges from vehicle fueling and maintenance areas, regardless of the amount of new and fully reconstructed impervious surface; Industrial facilities are not authorized under NPDES permit.
 - (ii) Where high levels of contaminants in soil or groundwater may be mobilized by the infiltrating stormwater. To make this determination, applicant's must complete the MPCA's site screening assessment checklist, which is available in the Minnesota Stormwater Manual. The assessment must be retained with the site plans; Vehicle fueling and maintenance occur.
 - (iii) Where soil infiltration rates are more than 8.3 inches per hour unless soils are amended to slow the infiltration rate below 8.3 inches per hours; There is less than three feet to saturated soils or top of bedrock.
 - (iv) High levels of contaminants could be mobilized. With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils of the top of bedrock;

- (v) of predominately Hydrologic Soil Group D soils;
 - (vi) in an Emergency Response Area (ERA) within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, Subp. 13, classified as high or very high vulnerability as defined by the Minnesota Department of Health;
 - (vi) In an ERA with a DWSMA classified as moderate vulnerability unless a higher level of engineering review is approved to prevent adverse impacts to groundwater;
 - (vii) Outside of an ERA within a DWSMA classified as high or very high vulnerability unless a higher level of engineering review is approved to prevent adverse impacts to groundwater;
 - (ix) Within 1,000 feet up-gradient of 100 feet down gradient of active karst features;
 - (x) That receive stormwater runoff from these types of entities regulated under NPDES for industrial stormwater: automobile salvage yards; scrap recycling and waste facilities; hazardous waste treatment, storage, or disposal facilities; or air transportation facilities that conduct deicing activities.
5. Restrict the use of infiltration techniques in areas:
- (i) Within a drinking water supply management area.
 - (ii) Where soil infiltration rates are more than 8.3 inches per hour.
65. For linear projects, the water quality volume must be calculated as the larger of one (1) inch times the new impervious surface or one-half (0.5) inch times the sum of the new and fully reconstructed impervious surface. Where the lack of right-of-way precludes the installation of volume control practices, the City may allow exceptions as described in the NPDES permit, as long as a reasonable attempt is made to obtain right-of-way during the project planning process provided that treatment of the water quality volume is maximized prior to discharge from the MS4.
76. Mitigation in the cases where infiltration is infeasible or inappropriate due to the circumstances as described above is allowed in accordance with the LRRWMO standards. Off-site treatment project areas shall be selected in the following order of preference:
- (i) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity;
 - (ii) Locations within the same Department of Natural Resource (DNR) catchment area as the original construction activity;
 - (iii) Locations in the next adjacent DNR catchment area up-stream; or
 - (iv) Locations anywhere within the City.
7. Off-site treatment (mitigation) projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. Routine maintenance of structural stormwater BMPs already required cannot be used to meet this requirement.
8. Off-site treatment (mitigation) projects must be completed no later than 24 months after the start of the original construction activity.

9. Private Stormwater Treatment Systems. Site Owner's shall enter into a Stormwater Maintenance Agreement with the City to ensure the long-term operation and maintenance of the stormwater system. At a minimum, the Stormwater Maintenance Agreement shall include:

- (i) Allow the City to conduct inspections of the privately owned structural stormwater BMPs, perform necessary maintenance, and assess the costs for those structural stormwater BMPs when the City determines the Owner has not maintained proper function;
- (ii) Shall run with the land when the land is sold or transferred to another party;
- ~~(i)~~(iii) Measures to protect/preserve the structural stormwater BMPs. If structural stormwater BMPs change, causing decreased effectiveness, new, repaired, or improved structural stormwater BMPs must be implemented to provide equivalent treatment to the original BMP.

d. *Compliance with NPDES construction permit.* All projects disturbing one acre or more of land shall be in conformance with the general permit to discharge stormwater associated with construction activity under the NPDES permit as issued by MPCA, including but not limited to the following:

1. *Dewatering.*

- (i) The plan shall provide a means to treat water that is pumped from a construction site through appropriate controls.
- (ii) Water may not be discharged in a manner that causes erosion or flooding of the site, off-site property, receiving channels, or a wetland.

2. *Site inspections and maintenance.*

- (i) The plan shall include a schedule for inspections, the purpose of which will be to determine the overall effectiveness of the control plan and the need for additional control measures.
- (ii) Inspections must be performed by a trained person at least once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches as per the NPDES construction permit requirements.
- (iii) Inspections shall be documented in written form and submitted to the engineering department upon request.
- (iv) All nonfunctional BMPs shall be repaired, replaced, or supplemented within 24 hours of discovery.
- (v) Sediment tracked onto a public street, private street, or parking lot must be cleaned by the close of each business day.

3. *Temporary sediment basins.* For sites with more than five acres disturbed at one time the contractor must construct one or more temporary or permanent sedimentation basins in accordance with the NPDES permit.

4. *Final stabilization.* The plan shall include, upon completion of construction activity, perennial vegetative cover on all exposed soils or other equivalent means as specified in the NPDES permit.

e. *Wetland protection standards.* Unless eligible for an exemption, all projects with land disturbance of one acre or more must comply with the wetland protection standards as set forth by the LRRWMO, including but not limited to:

1. A temporary wetland buffer of 16.5 feet from the wetland boundary must be protected during construction.
2. A permanent buffer of 16.5 feet from the wetland boundary shall be established following construction. The following activities are prohibited within the permanent wetland buffer:
 - (i) Structures, with the exception of fences.
 - (ii) Paving, with the exception of project with a public purpose such as public trails.
 - (iii) Retaining walls.
 - (iv) Filling, dumping or yard waste disposal.
 - (v) Fertilization.
 - (vi) Septic systems.
3. Drainage and utility easement required. The entire wetland buffer shall be within a drainage and utility easement.
4. Stormwater discharge. For new development or redevelopment proposals, stormwater discharge into wetlands must be pretreated in accordance with LRRWMO stormwater standards.
5. Wetland management standards. All projects shall be in compliance with Table 2-4, Wetland Management Standards, on file in the office of the city clerk, as discussed in the City of Anoka Local Surface Water Management Plan.

(2) General information, including a site plan that includes the following:

- a. The names, addresses, telephone numbers, and fax numbers of the applicant, owner, developer, engineer and contact person;
- b. The section, township and range, north point, date and scale of drawing, and number of sheets;
- c. Plat names and block, lot, and outlot boundaries for adjacent platted properties and full property identification numbers for adjacent unplatted properties;
- d. Delineation of the subject property and the location of existing and proposed buildings, structures and impervious surfaces on the subject property;
- e. Location and indication of demolition, relocation or abandonment of existing structures, driveways, septic systems and wells;
- f. Existing underground and overhead utilities, easements and rights-of-way;
- g. Topographical data, including existing (dashed) and proposed (solid) contours at vertical intervals of not more than two feet, except that contour lines shall be no more than 100 feet apart;
- h. The location and size of all existing sanitary sewer, water or storm sewer, and services on or adjacent to the property;
- i. Identification of all water bodies located on or within 30 feet of the subject property's boundaries, including the normal water level (NWL), the high water level (HWL), and the ordinary high water (OHW) elevations;
- j. The location and direction of natural drainage patterns on and immediately adjacent to the site;
- k. A description of the soils at the site;
- l. If applicable, the location of the ten-year and 100-year floodplains, flood fringes, and flood ways;
- m. Delineation of all areas to be graded or excavated, and the limits of land disturbing activity;

- n. Identification of the location of dirt or soil storage or stockpile area to be utilized on the subject property;
 - o. The estimated time required to complete the proposed work and the amount of material to be moved on the site and the amount to be removed from the site;
 - p. A landscape plan, drawn to appropriate scale, including dimensions and distances, and the location, type, size, and description of all proposed landscape materials that will be added as part of the development;
 - q. Location and dimensions of permanent erosion control measures;
 - r. Location of any proposed septic system;
 - s. Any other information pertinent to the particular project which in the opinion of the applicant or the city is necessary for the review of the project.
- (g) *Plan and permit review procedure.*
- (1) *Process.* Review of the submitted plan and permit will be coordinated with other necessary approvals.
 - (2) *Plan and permit approval.* Projects that are regulated by this section shall be approved administratively by city staff, unless city staff presents it to the city council for its review and approval. Upon finding that the requirements of this section have been met and after approval of the LDECP, the city will issue a permit in accordance with the provisions of this section.
 - (3) *Conditions of approval.* In granting any land disturbance permit, the engineering department may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property. Such conditions may include, but are not limited to, the following:
 - a. Requirements for fencing of excavations;
 - b. Improvements of any existing site condition for compliance with the standards of this section;
 - c. Requirements to slope banks and keep the excavation in such condition as not to be dangerous from caving or sliding banks;
 - d. Requirements to properly drain, fill or level the excavation, after it has been created, to make the excavation safe;
 - e. Requirements to remove excavated/graded material from the excavation away from the premises upon and along such highways, streets, or other public ways as directed by the city;
 - f. Requirements to retain and store top soil from the subject site and to utilize such material in restoration of the site;
 - g. Requirements to limit the hours of operation.
- (h) *Security.* The city shall require either the applicant or the owner for which the land disturbance permit is issued to post a security in such form and sum as determined by the public services director. The amount of the security shall be sufficient to cover the city's extraordinary cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill or excavated material. The amount of the security shall also be sufficient to ensure compliance with all requirements of this section, and the particular permit, and to pay the expense the city may incur as a result of the permit.
- (i) *Expiration of permit and plan.* Any LDP issued pursuant to the requirements of this section shall expire two years from the date of approval if significant progress of the work covered by the permit is not accomplished, unless an extension of the permit is requested by the applicant and approved by the city council.
- (j) *Revocation of permit.* Failure to comply with the approved terms and conditions of an LDECP shall be grounds for revocation of the LDP, or other permit or approval issued in lieu thereof, by the city council

following a public hearing. Written notice of the public hearing shall be mailed at least ten days prior to the hearing to the current holder of the permit. Such notice shall outline the violations considered by the city to be grounds for revocation and inform the current holder of the permit of the opportunity to be heard at such public hearing.

- (k) *Other permit or approval in lieu of LDP.* When a building permit is issued in connection with a project, or a new development project is approved by the city as required by this Code, the building permit or other new development approval may be in lieu of the land disturbance permit required hereunder, provided the applicant shall comply with all other regulations herein, including, but not limited to, compliance with an LDECP.
- (l) *Appeal of decisions.* Except the decision to revoke a land disturbance permit under subsection (j) of this section, the applicant may appeal any requirement, decision or determination by the city in connection with any provision of this section pursuant to the procedures as set forth in this Code under zoning regulations as related to the board of appeals and adjustments.
- (m) *Compliance with plan.* The applicant shall implement and comply with a city-approved LDECP prior to and during any construction or land disturbing activity under the LDP. All erosion and sedimentation control and tree preservation measures required under the plan shall be properly installed and remain in place until all grading and construction activity is completed or until a written request for removal of the protection measures is made to and approved by the city. No construction or land disturbing activity to which this section applies or removal of any significant trees may occur until the LDECP is approved by the city and except in accordance with the approved LDECP. Failure to comply with the approved terms and conditions of the LDECP shall constitute a violation of this section.
 - (1) *Determination of compliance.* The city shall have the right to enter and inspect the subject property in order to determine compliance with the approved LDECP. The city shall have the right to order the suspension of any grading or construction activity on the subject property until compliance with the LDECP has occurred.
 - (2) *Finding of noncompliance.* Upon a finding of noncompliance, the city shall use the following procedure with respect to notification and corrective measures:
 - a. The city shall personally serve upon the project manager, or other responsible person, and by certified U.S. mail upon the property owner, if different than the project manager, a written notification of the violation of the approved LDECP.
 - b. If remedial work is not completed and compliance with the LDECP has not occurred within 48 hours of service of the violation notification, the city may complete remedial or corrective work and any costs incurred in connection with taking remedial action or installing corrective measures may be recovered from the applicant. The city may recover costs by certifying them for collection with real estate property taxes. In the alternative, the city may revoke a construction-related permit and order the termination of all construction activity on the subject property until the subject site is in compliance with the LDECP.
- (n) *Emergency corrective actions.* In the event circumstances exist such that noncompliance poses an immediate danger to the public health, safety and welfare, as determined by the city, the city may take emergency corrective action to prevent such danger. The city shall take reasonable action to contact and direct the owner of the subject property to take any necessary action. Any costs incurred by the city in connection with any emergency action may be recovered from the applicant. The city may elect to recover costs by certifying them for collection with real estate property taxes.

(Prior Code, § 38-177)