

**CITY OF HOPKINS
COUNTY OF HENNEPIN**

ORDINANCE NO. 2023-1187

**ORDINANCE AMENDING CHAPTERS 40 AND 102 OF THE
HOPKINS CITY CODE REGARDING ILLICIT DISCHARGE AND STORMWATER
MANAGEMENT**

THE CITY COUNCIL OF THE CITY OF HOPKINS HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Hopkins City Code, Part II, Chapter 40, Division 2, Section 40-282 is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

Sec. 40-282. – Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best management practices or *BMPs* mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. Best management practices or BMPs also include treatment practices, operating procedures, and practices to control site runoff; spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act means the federal Water Pollution Control Act (33 USC § 1251 et seq.), and any subsequent amendments thereto.

Common Plan of Development or Sale means one proposed plan for 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.

~~*Construction activity* means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.~~

Construction Activity means activities including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre, including the disturbance of less than one acre of total land area that is part of a larger common plan of development

or sale if the larger common plan will ultimately disturb equal to or greater than one acre. This includes a disturbance to the land that results in a change in the topography, existing soil cover, both vegetative and nonvegetative, or the existing soil topography that may result in accelerated stormwater runoff that may lead to soil erosion and movement of sediment. Construction activity does not include a disturbance to the land of less than five acres for the purpose of routine maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Routine maintenance does not include activities such as repairs, replacement and other types of non-routine maintenance. Pavement rehabilitation that does not disturb the underlying soils (e.g., mill and overlay projects) is not construction activity.

SECTION 2. Hopkins City Code, Part II, Chapter 40, Division 2, Section 40-283 is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

This division shall apply to all water entering the ~~storm drainage system~~ MS4 generated on any premises unless explicitly exempted by the city.

SECTION 3. Hopkins City Code, Part II, Chapter 40, Division 2, Section 40-287 is hereby amended by adding the double-underlined language as follows:

Sec. 40-287. Prohibited discharges and connections.

(a) *Illegal discharges.* No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants or any non-stormwater discharge. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except for the following:

(1) The following discharges are exempt from discharge prohibitions established by this division: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, unpolluted ground water infiltration, unpolluted pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, leaking drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.

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

(3) Discharges associated with dye testing, however this activity requires a verbal notification to the city prior to the time of the test.

(4) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger

and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Illicit connections.* The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited and subject to the following:

(1) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(2) A person is in violation of this division if the person makes an illicit connection conveying sewage to the MS4, or allows such a connection to continue.

(3) Illicit connections in violation of this division must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system approved by the city.

(4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm drainage system, 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. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as stone sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and accurate drawings prepared by a qualified contractor or surveyor provided to the city.

(c) *Pet Waste Management*

(1) All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

(d) *Salt Storage*

(1) All facilities storing salt must require the following:

(a) Designated salt storage areas must be covered or indoors.

(b) Designated salt storage areas must be located on an impervious surface.

(c) Implementation of practices to reduce exposure when transferring material.

SECTION 4. Hopkins City Code, Part II, Chapter 40, Division 2, Section 40-289 is hereby amended by adding the double-underlined language as follows:

Sec. 40-289. Industrial or construction activity discharge compliance.

- (a) Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. This includes compliance with the standards established by the Minnesota Pollution Control Agency's NPDES/SDS Industrial Activity Permit (MNR050000), the Construction Stormwater General Permit MNR100001 (CSW Permit), and the Small Municipal Separate Storm Sewer Systems General Permit MNR040000 (MS4 Permit). Proof of compliance with the permit may be required in a form acceptable to the city prior to the allowing of discharges to the MS4.

SECTION 5. Hopkins City Code, Part II, Chapter 40, Division 2, Section 40-293 is hereby amended by adding the double-underlined language and deleting the ~~stricken~~ language as follows:

Any person violating any provision of this division is guilty of a misdemeanor.

(1) *Warning notice.* When the city finds that any person has violated, or continues to violate, any provision of this division or any order issued hereunder, the city may serve upon that person or business a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the city staff to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(2) *Notice of violation.* Whenever the city finds a person has violated a prohibition or failed to meet a requirement of this division, the authorized enforcement agency may order compliance by written notice of violation to the responsible person.

a. The notice of violation shall contain:

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 division and a time schedule for the completion of such remedial action;
5. A statement of the penalty that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 30 days of service of notice of violation; and
7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

b. Such notice may require without limitation:

1. Monitoring, analyses, and reporting;
2. Elimination of illicit connections, ~~or~~ discharges, or pet waste;
3. The installation of proper salt storage facilities and implementation of proper salt handling procedures.
- ~~34.~~ Abatement of pollution and hazards;
- ~~45.~~ Restoration of affected property;
- ~~56.~~ Payment of fine to cover administrative and remediation costs;
- ~~67.~~ Implementation of source control or treatment BMPs; and
- ~~78.~~ Other actions as deemed necessary by the city.

SECTION 6. Hopkins City Code, Part III, Chapter 102 is hereby amended by adding the double-underlined language after as follows:

102-1210 Stormwater Management

102-1210 (a) GENERAL PROVISIONS

(1) Findings. The city council finds that uncontrolled stormwater runoff and construction site erosion from land development and land disturbing activities can have significant

adverse impacts upon local and regional water resources, diminishing the quality of public health, safety, public and private property and natural resources of the community.

(2) Purpose

a. The general purpose of the stormwater management regulations of this article is to establish regulatory requirements for land development and land disturbing activities aimed at minimizing the threats to public health, safety, public and private property and natural resources within the city resulting from construction site erosion and post-construction stormwater runoff.

b. These regulations are further intended to meet the current construction site erosion and sediment control and post-construction stormwater management regulatory requirements for construction activity and small construction activity (NPDES permit) as defined in 40 CFR part 122.26(b)(14)(x) and (b)(15), respectively.

(3) Statutory Authorization. The stormwater management regulations of this article are adopted pursuant to the authorization and policies contained in M.S.A. chs. 103B and 462; Minn. Admin. Rules 6120.2500—6120.3900, Minn. Admin. Rules chs. 8410, 8420.

~~(4) Engineering Design Guidelines. The latest version of the City of Hopkins Engineering Design Guidelines is hereby incorporated into this article as if fully set forth herein. The guidelines constitute the official guide for stormwater principles, methods, and practices for proposed development and redevelopment activities.~~

~~(5)~~ Applicability, Exemptions, Waivers

a. Approval Required Prior to Permit. Every application for a conditional use permit that involves construction of a building, subdivision approval or a permit to allow land disturbing activities must be accompanied by a stormwater pollution prevention plan (SWPPP) and a stormwater management plan pursuant to this chapter. No conditional use permit, subdivision approval or permit to allow land disturbing activities shall be issued until approval of the SWPPP and the stormwater management plan or a waiver of the requirements has been obtained in strict conformance with the provisions of this article. The provisions of 102-1210 (e) apply to all land, public or private, located within the city.

b. State Pollution Control Agency (MPCA). The MPCA is the permitting authority for land disturbing activities requiring an NPDES permit for construction activity, ~~including the requirements for developing and implementing a SWPPP~~. Where required, the NPDES permit is in addition to permits required by the city.

c. Exemptions. The stormwater management regulations of article do not apply to:

1. Any part of a subdivision if a plat for the subdivision has been approved by the city council on or before the effective date of the ordinance from which this article is derived;
2. Any land disturbing activity for which plans have been approved by the watershed management organization and the city within 6 months prior to the effective date of the ordinance from which this article is derived;
3. A lot for which a conditional use permit or building permit has been approved on or before the effective date of the ordinance from which this article is derived;
4. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;
5. Waiver of plat, re-plat, platting of a developed lot, or a single lot division;
6. Construction of a single-unit to four-unit house;
7. An addition to an existing building that does not require a conditional use permit;
8. Construction of a detached accessory building that does not require a conditional use permit;
9. Emergency work to protect, life, limb or property; or
10. The improvements involve the enlargement of a building that is less than ten percent of the total floor area of the existing building or 5,000 square feet, whichever is less.

d. Waivers. The city council, upon recommendation of the planning commission, may waive any requirement of this article upon making a finding that compliance with the requirement will involve an unnecessary hardship or the project does not have any significant alterations of existing stormwater conditions and the waiver of such requirement will not adversely affect the standards and requirements set forth in 102-1210 (b). The city council may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet the standards and requirements set forth in 102-1210 (b).

102-1210 (b) STORMWATER POLLUTION PREVENTION PLAN

(1) General. Development and implementation of the SWPPP shall comply with the standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit), the MPCA's Small Municipal Separate Storm Sewer Systems General Permit MNR040000 (MS4 Permit), Minnehaha Creek Watershed District (MCWD) Rules, and Nine Mile Creek Watershed

District (NMCWD) Rules, all as applicable and as now constituted and from time to time amended.

102-1210 (b~~c~~) STORMWATER MANAGEMENT PLANS

(1) General. If permanent stormwater management facilities are required for improvements pursuant to this chapter, a written application for stormwater management plan approval, along with the proposed stormwater management plan, shall be filed with the planning department, and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the subject zone and adequate evidence showing that the proposed use will conform to the standards set forth in this article. Prior to applying for approval of a stormwater management plan, an applicant may have the stormwater management plan reviewed by the appropriate department of the city.

102-1210 (d) APPLICATION PROCEDURES

(~~2~~1) Required Information.

a. ~~Two sets~~ One set of clearly legible ~~blue or black lined~~ digital copies of drawings and required information shall be submitted to the planning department and shall be accompanied by a receipt from the city evidencing the payment of all required fees for processing and approval as set forth in (~~3~~)e (~~2~~)f. A bond will be required in accordance with (~~3~~)d (~~2~~)e if the improvements have not been completed at the time the certificate of occupancy has been completed. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum the scale shall be one inch equals 100 feet.

b. Unless otherwise exempted by this article, an application for stormwater management approval shall include the following as a condition for its consideration:

1. A stormwater management plan; and

2. A maintenance agreement.

c. The stormwater management plan shall be prepared to meet the approval standards of 102-1210 (~~e~~ f) ~~as well as the requirements within the city's Engineering Design Guidelines~~; the maintenance agreement shall be prepared to meet the requirements of 102-1210 (~~e~~ e).

~~d. In lieu of preparation of a stormwater management plan, major single-family residential projects and minor expansion projects may install a rain garden or similar stormwater improvement as described in the city's Engineering Design Guidelines.~~

(~~3~~2) Process

a. Plan Submittal. ~~A stormwater management plan meeting the requirements of 102-1210 (b)~~ All required plans, calculations, and other pertinent design information shall be submitted by the planning department to the planning commission for review ~~in accordance with the approval standards of 102-1210 (d)~~. The commission shall recommend approval, recommend approval with conditions or recommend denial of the stormwater management plan. Following planning commission action, the stormwater management plan along with the conditional use permit and/or subdivision approval shall be submitted to the city council at its next available meeting. City council action on the stormwater management plan must be accomplished within 120 days following the date the application for approval is filed with the planning department unless there has been a delay caused or requested by the applicant.

b. Duration. Approval of a plan submitted under the provisions of this article shall expire one year after the date of approval unless construction has commenced in accordance with the plan; however, if prior to the expiration of the approval the applicant makes a written request to the planning department for an extension of time to commence construction, setting forth the reasons for the requested extension, the planning department may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the planning department within 15 days. The planning department shall make a decision on the extension request within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

c. Conditions. A stormwater management plan may be approved subject to compliance with reasonable conditions necessary to ensure that the requirements contained in this article are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure buffering, and require the conveyance to the city or other public entity of certain lands or interests therein.

d. Financial Security. The owner shall provide the city with financial security to ensure the performance of the owner's obligations for construction site management during construction. The financial security may be a letter of credit in a form acceptable to the city or cash. The financial security must be provided to the city before issuance of the permit. The city may use the financial security to assure that the work is completed in accordance with the stormwater pollution prevention plan and the provisions of this chapter. The financial security may also be used by the city to eliminate any hazardous conditions associated with the work and to repair any damage to public property or infrastructure that is caused by the work. The amount of security shall be 125 percent of the

estimated cost to accomplish compliance with the approved stormwater pollution prevention plan. This shall be in addition to any other security performance required by any other regulations in this Code. The estimated cost shall be subject to approval by the city engineer. If at any time during the course of the work this amount of security falls below 50 percent of the required security deposit, the developer shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the developer does not bring the financial security back up to the required amount within seven days after notification by the city that the amount has fallen below 50 percent of the required amount the city may withhold scheduling of inspections and certificate of occupancy or revoke the permit.

de. Performance Bond. Prior to approval of any stormwater management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed upon. If the improvements have not been constructed at the time the certificate of occupancy is issued, the applicant shall provide a bond to cover the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with 102-1210 (e e). The adequacy, conditions and acceptability of any agreement and bond shall be determined by the city council or any official of the city as may be designated by resolution of the city council.

ef. Fees. All applications for stormwater management plan approval shall be accompanied by a process and approval fee, as established in chapter 14.

102-1210 (ee) MAINTENANCE AGREEMENTS

(1) Agreement

a. The responsible party shall enter into a maintenance agreement with the city that documents all responsibilities for operation and maintenance of all stormwater management and treatment practices constructed to meet governmental requirements. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. The maintenance agreement shall be executed and recorded against the parcel.

b. The stormwater maintenance agreement shall be in a form approved by the city and shall describe the inspection and maintenance obligations of this section and, at a minimum:

1. Designate the 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 treatment practices as described in (1) and (2).
4. Allow the city the right to repair and maintain the facility if necessary maintenance is not performed after proper and reasonable notice to the responsible party.
5. Include a maintenance plan that contains, but is not limited to, the following:
 - 6a. Identification of all structural stormwater treatment practices.
 - 7b. A schedule for regular inspection, monitoring and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed, and may include, but is not limited to, quality, temperature and quantity of runoff.
 - 8c. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each practice.
 - 9d. Identify a schedule and format for reporting compliance with the maintenance plan to the city.

(2) Inspections

- a. Inspection programs shall be established on any reasonable basis, including, but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the National Pollutant Discharge Elimination System (NPDES) stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.
- b. When any new stormwater treatment practice is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter

a property when the city has a reasonable basis to believe that a violation of this article is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this article.

c. ~~The director of public works, or designated representative,~~ A designated city representative shall inspect ~~all~~ stormwater management facilities ~~during construction, during the first year of operation and at least once every five years thereafter~~ during and post-construction per the schedule outlined in the city's MS4 Stormwater Pollution Prevention Program. The inspection records will be kept on file at the public works department for a period of six years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purposes.

(3) Record-Keeping. The responsible party shall make records of the installation and of all maintenance and repairs of the stormwater treatment practices, and shall retain the records for at least three years. These records shall be made available to the city during inspection of the stormwater treatment practice and at other reasonable times upon request.

(4) Failure to Maintain. If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the stormwater treatment practice in proper working condition. In the event that the stormwater treatment practice becomes a danger to public safety or public health, the city shall notify the responsible party in writing. Upon receipt of that notice, the responsible party shall have 30 days to perform the maintenance and repair of the facility in an approved manner. After proper notice, the city may specially assess the owners of the stormwater treatment practice for the cost of repair work and any penalties; and the cost of the work shall be assessed against the property and collected along with ordinary taxes by the county.

102-1210 (d) ~~APPROVAL~~ DESIGN STANDARDS

(1) General. ~~Stormwater management plans~~ Plans that fail to meet the approval standards of this subsection may not be approved by the city council.

(2) Land Disturbing Activities. Projects with land disturbing activities of one acre or greater or that are part of a common plan of development or sale that ultimately will disturb greater than one acre shall meet the current requirements for stormwater management as specified by ~~the city's engineering design standards and state pollution control agency~~ the Minnesota Pollution Control Agency (MPCA) construction general permit NPDES permits. This includes compliance with the standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) and the MPCA's Small Municipal Separate Storm Sewer Systems General Permit MNR040000 (MS4 Permit). All land disturbing activities

within the city disturbing less than one acre and down to 10,000 square feet, or which will result in more than 200 cubic yards of cut or fill are ~~only~~ required to follow the construction site stormwater runoff control standards set forth in the NPDES General Construction Permit for the following items: ~~within the city's Engineering Design Guidelines. The standards should follow the following requirements:~~

- ~~a. Erosion control~~ prevention practices.
- b. Sediment control practices.
- ~~c. Temporary sediment basins~~
- ~~d. Dewatering and basin draining.~~
- ec. Inspection and maintenance.
- fd. Pollution prevention management measures.
- ~~f. Final stabilization.~~
- ~~g. Training.~~

(3) Performance Criteria. Unless determined by the city to be exempt or granted a waiver, all site designs shall establish stormwater management practices to control the peak flow rates and pollutants of stormwater discharge ~~associated with specified design storm and runoff volumes, as detailed in the city's Engineering Design Guidelines~~ as follows:

- ~~a. New development; rate control, volume control, and water quality standards shall apply to all new development. There shall be no net increase from pre-project conditions (on an average annual basis) of total volume, TSS and TP. New development projects shall retain a runoff volume equal to one inch times the area of the proposed increase of impervious surfaces on site.~~
- ~~b. Redevelopment; rate control, volume control and water quality standards shall apply to all redevelopment. There shall be a net reduction in the amount of TP, TSS and stormwater runoff volume leaving the site as compared with pre-project conditions. For redevelopment projects where the project proposer intends to add more impervious surfaces, the new development treatment requirements must be applied to the net increase of impervious surfaces. Additional treatment must also be included to reduce the volume, TP and TSS loads from the existing impervious surfaces.~~

a. Rate control. The peak rates for proposed improvements shall not increase from existing conditions for the 2-, 10-, 100-year storm events, and the 100-year, 10-day snowmelt event. Peak rates shall be calculated using Atlas 14 precipitation depths and storm distributions. The storm sewer conveyance system shall be designed for a 10-year, 24-hour storm event. The pond and pond outlet structure shall handle the 100-year, 24-hour storm event.

b. Water quality. At a minimum, proposed improvements must treat the water quality volume as outlined in the MPCA's Small Municipal Separate Storm Sewer Systems General Permit MNR040000 (MS4 Permit).

(4) Stormwater Management Facility Design Standards. Stormwater detention management facilities constructed in the city shall be designed according to the most current technology as reflected in this article and the city's Engineering Design Guidelines, to comply with the city's Engineering Design Guidelines, and to comply with the standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit), the MPCA's Small Municipal Separate Storm Sewer Systems General Permit MNR040000 (MS4 Permit), Minnehaha Creek Watershed District (MCWD) Rules, and Nine Mile Creek Watershed District (NMCWD) Rules, all as applicable and as now constituted and from time to time amended.

(5) Wetlands.

a. Runoff shall not be discharged directly into wetlands without pre-settlement of the runoff.

b. A protective buffer strip of natural vegetation must be retained in accordance to the standards given within the city's Engineering Design Guidelines established by Minnehaha Creek Watershed District (MCWD) Rules or Nine Mile Creek Watershed District (NMCWD) Rules, as applicable and as now constituted and from time to time amended.

c. Wetlands may not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority:

1. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
2. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
5. Compensating for the impact by replacing or providing substitute wetland resources or environments.

(6) Steep Slopes. No land disturbing or development activities shall be allowed on slopes of 18 percent or more.

(7) Catchbasins. All newly installed and rehabilitated catchbasins directly upstream of an outfall or stormwater management facilities shall be provided with a sump area for the collection of coarse-grained material. ~~Such basins shall be cleaned when they are half filled with material.~~

(8) Drain Leaders. All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.

(9) Methodologies & Computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of stormwater management structures shall be approved by the director of public works. Plans, specification and computations for stormwater management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computation shall appear on the plans submitted for review, unless otherwise approved by the director of public works.

(10) Watershed & Groundwater Management Plans. Stormwater management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with M.S.A. §§ 103B.23, subd. I and 103B.255 respectively, and as approved by the state board of water soil resources in accordance with state law.

(11) Easements. If a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

102-1210 (eg) DRAINAGE FACILITY PROTECTION

(1) General. No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative material on impervious surfaces, or within stormwater drainage systems, natural drainage ways, or within wetland buffer areas.

(2) Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved by landscaping, all areas shall be covered by plants or vegetative growth.

(3) Fertilizer Content. Except for the first growing season for newly established turf areas, no person shall apply liquid fertilizer which contains more than one-half percent by weight of phosphorus, or granular fertilizer which contains more than three percent by weight of phosphorus, unless the single application is less than or equal to one-tenth pound of phosphorus per 1,000 square feet. Annual application amount shall not exceed one-half pound of phosphorus per 1,000 square feet of lawn area.

(4) Buffer Zone. Fertilizer application shall not be made within one rod (16½ feet) of any wetland or water resource.

102-1210 (fh) ENFORCEMENT

~~(1) Inspections~~

~~a. Notification. The erosion control inspector shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the erosion and sediment control plan as approved~~

~~b. Procedure. The applicant is responsible for regular inspections and record keeping needed to document compliance with the permit requirements. The applicant must inspect the construction project once per week and within 24 hours after a rain event greater than one half-inch. The city may conduct inspections as needed to ensure that both erosion and sediment control and stormwater measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. The applicant shall notify the city a minimum of 72 hours prior to the following required city inspections:~~

~~1. Initial Inspection. When all erosion and sediment control BMPs are installed. This inspection must be completed before a building permit can be issued.~~

~~2. Project Complete Inspection. When the project is complete, including, but not limited to, final grading, installation of all stormwater management facilities, and final stabilization measures are complete. The one-year warranty begins after inspector approves project.~~

~~3. Warranty Inspection. Completed one year later to confirm that permanent site stabilization methods have been successful and vegetation has been established.~~

~~c. Reporting. The applicant shall submit reports to the administrator under the following circumstances and shall submit recommendations for corrective measures, if appropriate, with such reports:~~

~~1. There are delays of more than seven days in obtaining materials, machinery, services or manpower necessary to the implementation of the stormwater management plan as scheduled.~~

~~2. There are delays of seven days in land disturbing or filling activities or soil storage.~~

~~3. The work is not being done in conformance with the approved plans and permit. Any changes to the approved plan must be submitted to the zoning administrator for review and approval before work can commence.~~

(1) Notification of SWPPP non-compliance

a. Notice of Violation. If the city Inspector notices any non-compliance with the SWPPP, correspondence will be provided to the responsible party indicating items requiring correction and a date to complete corrective actions. The notice shall be in accordance with (4)b of this section.

b. Notification of action on Financial Security. The city shall notify the applicant, when the city is going to act on the financial securities part of this Ordinance. The initial contact will be to a party listed on the application and/or the SWPPP. Forty-eight hours after notification by the city or 72 hours after the failure of the erosion control measures, whichever is less the city, at its discretion, may begin corrective work.

c. Erosion off-site. If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the city, shall more than seven calendar days go by without corrective action being taken. If in the discretion of the city, the applicant does not repair the damage caused by the erosion, the city may do remedial work required and charge the cost to the applicant.

d. *Erosion into streets, wetlands or water bodies.* If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, prevention strategies, cleanup and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during cleanup operations.

e. *Failure to do corrective work.* When an applicant fails to conform to any provision of this policy within the time stipulated, the city may take the following actions:

1. Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a certificate of occupancy.

2. Revoke any permit issued by the city to the applicant for the site in question or any other of the applicant's sites within the city's jurisdiction.

3. Direct the correction of the deficiency by city forces or by a separate contract. The issuance of a permit constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.

4. All costs incurred by the city in correcting stormwater pollution control deficiencies must be reimbursed by the applicant. If payment is not made within 30 days after costs are incurred by the city, payment will be made from the applicant's financial securities as described in section 1210 (f).

5. If there is an insufficient financial amount, in the applicant's financial securities as described in section 1210 (f), to cover the costs incurred by the city, then the city may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the city, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of M.S.A. § 429.081 to challenge the amount or validity of assessment

(2) Post-Construction Operation and Maintenance

(a) Notice of Violation: If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the city may issue a Notice of Violation. The notice shall be in accordance with (4)b of this section.

(b) Action by City. If, after deadline set for completion of corrective action in Notice of Violation, the responsible party still fails or refuses to meet the requirements of the maintenance agreement, the city may correct a violation of the design standards or maintenance needs by performing all necessary work to place the stormwater treatment practice in proper working condition. After proper notice, the city may specially assess the owners of the stormwater treatment practice for the cost of repair work and any penalties; and the cost of the work shall be assessed against the property and collected along with ordinary taxes by the county.

(c) Emergency action. If circumstances exist such that noncompliance with this Ordinance poses an immediate danger to the public health, safety and welfare, as determined by the city, the city may take emergency preventative action. The city shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the community may be recovered from the applicant's financial security.

(23) Right of Entry

a. Permit grants right-of-entry. The issuance of a permit constitutes a right-of-entry for the city or its contractor to enter the construction site. The applicant shall allow the city and its authorized representatives to:

1. Enter the permitted site for the purpose of obtaining information, examining records, or conducting investigations or surveys;
2. Bring such equipment on the site as is necessary to conduct such surveys and investigations;
3. Examine and copy any books, papers, or digital files pertaining to activities or records required to be kept under the terms and conditions of the permitted site;
4. Inspect the stormwater pollution control measures;

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

6. Correct deficiencies in stormwater and erosion and sediment control measures consistent with the city's ordinances and the engineering guidelines.

b. Search Warrants. If city employees have been refused access to any part of the premises from which stormwater is discharged, and the employees are able to demonstrate probable cause to believe that there may be a violation of this article or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder or to protect the overall public health, safety, and welfare of the community, the city may seek issuance of a search warrant from any court of competent jurisdiction.

(34) Penalties

a. General. Any person, firm or corporation violating any provision of this article shall be fined not less than \$5.00 or more than \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

b. Notice of Violation. When the city determines that an activity is not being carried out in accordance with the requirements of this article, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. The name and address of the owner or applicant.
2. The address when available or a description of the land upon which the violation is occurring.
3. A statement specifying the nature of the violation.
4. A description of the remedial measures necessary to bring the development activity into compliance with this article and a time schedule for the completion of such remedial action.
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
6. A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 15 days of service notice of violation.

c. Stop Work Orders. Persons receiving a notice of violation will be required to halt all construction activities. This stop work order will be in effect until the city confirms that the land disturbance activity is in compliance and the violation has

been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

d. Civil and Criminal Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a misdemeanor and subject to prosecution. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

e. Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which may, after notice and opportunity for hearing, be specially assessed against the property and collected along with the ordinary taxes by the county.

(45) Appeals. Any person aggrieved by the action of any official charged with the enforcement of this article as the result of the disapproval of a properly filed application for approval, issuance of a written notice of violation, or an alleged failure to properly enforce this code in regard to a specific application, shall have the right to appeal the action to the city.

a. The applicant shall submit the appeal in writing and include supporting documentation.

b. City staff shall make a decision on the appeal within 15 business days of receipt of a complete appeal application.

c. The applicant may appeal the decision of city staff to the city council. This appeal must be filed with the city within 30 days of city staff's decision.

SECTION 7. The effective date of this ordinance shall be the date of publication.

First Reading:	March 21, 2023
Second Reading:	April 4, 2023
Date of Publication:	April 13, 2023
Date Ordinance Takes Effect:	April 13, 2023

By:

Patrick Hanlon, Mayor

ATTEST:

Amy Domeier, City Clerk

