

1007. Stormwater Management

1007.01 Statutory Authorization.

Subd. 1. This chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 103B and 462; Minn. Rules pts. 6120.2500 - 6120.3900; and Minn. Rules Ch. 8401 and 8420, as amended from time to time.

Subd. 2. This chapter is 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 C.F.R. pts. 122.26(b) (14) (x) and (b) (15), respectively.

Subd. 3. This chapter is intended to meet the Minimal Impact Design Standards (MIDS) developed under M.S. § 115.03 Subd. 5c, as amended from time to time.

1007.02 Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Subd. 1. Applicant. Any person or group that applies for a building permit, subdivision approval, or a permit to allow land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction along with the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

Subd. 2. As-Builts. A revised set of drawings submitted by the Applicant upon completion of a project or a particular job that reflect all changes made in the drawings during the construction process, and show as-constructed dimensions, geometry, and location of the work completed.

Subd. 3. Best Management Practices (BMPs). the most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means of to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies. Individual BMPs found in this permit are described in the current versions of Protecting Water Quality in Urban Areas, MPCA and The Minnesota Stormwater Manual, MPCA. BMPs must be adapted to the site and can be adopted from other sources. However, they must be similar in purpose and at least as effective and stringent as MPCA's BMPs. (Other sources include manufacturers specifications, Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, U.S.

Environmental Protection Agency 1992, and Erosion Control Design Manual, Minnesota Department of Transportation, et al, 1993).

Subd. 4. Buffer. An area as defined by Minnesota Stat. 103F.48 Subd. 1 (c).

Subd. 5. Certified SWPPP Designer, Installer, and/or Inspector/Site Manager. An individual who has completed specific training and obtained subsequent certification to design, install, and/or inspect/manage a SWPPP or components thereof. The training requirements necessary for certification shall be consistent with the current requirements of NPDES/SDS construction stormwater general permit.

Subd. 6. Common Plan of Development or Sale. 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. After completion of the initial Common Plan of Development or for previously developed land, any subsequent development or redevelopment would be regarded as a new Common Plan of Development. Subsequent development or redevelopment (e.g. such as adding new buildings, parking lot(s), or other Impervious Surface) would stand alone as a new Common Plan of Development for purposes of calculating acreage disturbed to determine if a permit is required.

Subd. 7. Construction Activity. Includes construction activity as defined in 40 CFR § 122.26(b)(14)(x) and small construction activity as defined in 40 CFR § 122.26(b)(15) and construction activity as defined by Minn. R. 7090.0080, subp. 4. This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling, and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development if the larger common plan will ultimately disturb one (1) acre or more. Construction activity does not include a disturbance to the land of less than five (5) acres for the purpose of routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Subd. 8. Developer. A person, state agency, or political subdivision thereof engaged in a land disturbance activity.

Subd. 9. Development. Any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.

Subd. 10. Dewatering. The removal of surface or ground water to dry and/or solidify a construction site to enable construction activity. Dewatering may require a Minnesota Department of Natural Resources water appropriation permit and, if dewatering water is contaminated, discharge of such water may require an individual MPCA NPDES/SDS permit.

Subd. 11. Discharge. The release, conveyance, channeling, runoff, or drainage, of Stormwater, including snowmelt, from a construction site.

Subd. 12. Energy Dissipation. Methods employed at pipe outlets to prevent erosion caused by the rapid discharge of water scouring soils. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

Subd. 13. Erosion. Any process that wears away the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

Subd. 14. Erosion Control. Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Subd. 15. Erosion and Sediment Practice Specifications or Practice. The management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by either the state, county, city or local watershed group, whichever is more stringent.

Subd. 16. Erosion Prevention. Measures employed to prevent erosion. Examples include but not limited to: soil stabilization practices, limited grading, mulch, temporary erosion protection or permanent cover, and construction phasing.

Subd. 17. Exposed Soil Areas. All areas of the construction site where the vegetation or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered exposed soil, until it meets the definition of final stabilization.

Subd. 18. Filter Strips. A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.

Subd. 19. Final Stabilization. All soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of

seventy-five percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or range land, final stabilization constitutes returning the land to its preconstruction agricultural use.

Subd. 20. Impervious Surface. A hard or paved surface or other material that prevents, impedes or retards the infiltration of a gas, air, fluids or water into the soil. Examples include but are not limited to rooftops, streets, compacted gravel, walkways, patios, driveways, parking lots, parking spaces, and/or swimming pools, storage areas and other facilities where concrete bituminous bricks, pavers, plastic or gravel exists or have been installed. Pervious pavers, pervious concrete and pervious bituminous are considered impervious surface.

Subd. 21. Impaired Waters. Waters identified as impaired under section 303 (d) of the Federal Clean Water Act for phosphorous, turbidity, dissolved oxygen of aquatic biota.

Subd. 22. Infeasible. Not technologically possible or achievable in light of the best industry practices.

Subd. 23. Initiated Immediately. Taking an action to commence stabilization as soon as practicable, but no later than the end of the work day, following the day when the earth-disturbing activities have temporarily or permanently ceased, if the Applicant knows that construction work on that portion of the site will be temporarily ceased for 14 or more additional calendar days or 7 calendar days. The following activities can be taken to initiate stabilization:

- A. prepping the soil for vegetative or non-vegetative stabilization;
- B. applying mulch or other non-vegetative product to the exposed soil area;
- C. seeding or planting the exposed area ;
- D. finalizing arrangements to have stabilization product fully installed in compliance with the applicable deadline for completing stabilization

Subd. 24. Land Disturbance Permit (LDP). A Stormwater Permit issued by the City for a Land Disturbance Activity.

Subd. 25. Land Disturbance Activity. Land changes that may disturb one acre or more including projects of less than one acre that are part of a larger Common Plan of Development that result in soil erosion from water or wind and the movement of

sediments into or upon waters or lands of the state, including clearing, grading, excavating, transporting and filling of land.

Subd. 26. National Pollution Discharge Elimination System (NPDES). The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

Subd. 27. Native Vegetation. Plant species native to the local region that were not introduced as a result of European settlement or subsequent human introduction.

Subd. 28. Natural Buffer. An unmown, undisturbed natural or enhanced native perennial vegetation area, excluding invasive plants and noxious weeds, that is managed to stabilize and maintain the integrity of upland, shorelines and river or stream channels to reduce the impact of upland sources of water runoff pollution by trapping, filtering and converting sediments, nutrients and other chemicals, stabilizing soils, shores and banks to protect or provide riparian corridors to supply food, cover and thermal protection to fish and other wildlife.

Subd. 29. New Development. Any development that results in the conversion of land that is currently prairie, agriculture, forest, or meadow and has less than 15 percent impervious surface. Land that was previously developed, but now razed and vacant, will not be considered new development.

Subd. 30. Normal Wetted Perimeter. The area of a conveyance, such as a ditch, channel, or pipe that is in contact with water during flow events that are expected to occur from a two-year 24-hour storm event.

Subd. 31. Ordinary High Water Mark. Generally the boundary elevation where the vegetation changes from predominately aquatic to terrestrial. This elevation delineates the highest water level, which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. Water often reaches this elevation in spring. For rivers and streams the ordinary high water mark is usually the top of the bank. The definition in Minnesota Statute 103G.005, subdivision 14 says that the“...“Ordinary high water level...”means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- A. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- B. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Subd. 32. Paved Surface. A constructed hard, smooth surface made of asphalt, concrete or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots. Hard surfaces designed or manufactured with the intent to transmit stormwater runoff vertically through the pavement section (e.g. pervious pavers, concrete, or bituminous) are considered to be impervious and included within the definition of Paved Surface.

Subd. 33. Permanent Cover. Surface types that will prevent soil failure under erosive conditions. Examples include: gravel, asphalt, concrete, rip rap, roof tops, perennial cover, or other landscaped material that will permanently arrest soil erosion. A uniform perennial vegetative cover (i.e. evenly distributed, without large bare areas) with a density of 70 percent of the native background vegetative cover for the area must be established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures. Permanent cover does not include the practices listed under temporary erosion protection.

Subd. 34. Permanent Stormwater Maintenance Plan. Detailed description of inspection and maintenance activities of permanent stormwater facilities to ensure long-term operation of the facilities in accordance with the original design. The Permanent Stormwater Maintenance Plan shall include a description of the frequency of inspections, items requiring inspection, thresholds for maintenance, replacement schedules, individual(s) and/or party(s) responsible for inspection and maintenance, and documentation requirements. The plan shall address all permanent stormwater facilities including, but not limited to, underground piping, swales, ditches, structures, energy dissipation, infiltration basins, underground basins, wet sedimentation basins, rain gardens, steep slopes, and overall site vegetation/restoration.

Subd. 35. Permit. A written warrant or license granted for construction, subdivision approval, a conditional use permit, variance or Land Disturbance Permit or to allow land disturbing activities.

Subd. 36. Phased Project or Development. Clearing a parcel of land in distinct phases, with at least fifty percent of the project's preceding phase meeting the definition of final stabilization and the remainder proceeding toward completion, before beginning the next phase of clearing.

Subd. 37. Project(s). All construction activity that is planned and/or conducted under a particular permit. The project will occur on the site or sites described in the permit application, and in the associated plans, specifications and contract documents.

Subd. 38. Public Waters. All water basins and watercourses that are described in Minn. Stat. § 103G.005 subd. 15.

Subd. 39. Redevelopment. Any development that is not considered New Development.

Subd. 40. Runoff Coefficient. The fraction of total precipitation that is not infiltrated into or otherwise retained by the soil, concrete, asphalt or other surface upon which it falls, that will appear at the conveyance as runoff. This coefficient is usually estimated for an event or on an average annual basis.

Subd. 41. Sediment. Solid mineral or organic material that, in suspension, is being transported or has been moved from its original site by air, water, gravity, or ice and has been deposited at another location.

Subd. 42. Sedimentation. The process or action of depositing sediment that is determined to have been caused by erosion.

Subd. 43. Sediment Control. Methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, bio rolls, rock logs, compost logs, storm drain inlet protection, and temporary or permanent sedimentation basins. A floating silt curtain placed in the water is not a sediment control BMP to satisfy perimeter control requirements, except as provided for in the sediment control part.

Subd. 44. Stabilize, Stabilized, Stabilization. The exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Grass, agricultural crop or other seeding alone is not stabilization. Mulch materials must achieve approximately 90 percent ground coverage (typically 2 ton/acre).

Subd. 45. Steep Slope. Slopes that are 1:3 (V:H) (33.3 percent) or steeper in grade.

Subd. 46. Stormwater. Defined under Minn. R. 7077.0105, subp. 41(b), and includes precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage.

Subd. 47. Stormwater Pollution Prevention Plan (SWPPP). A joint stormwater and erosion and sediment control plan that, when implemented, will decrease soil erosion on a parcel of land and off-site nonpoint pollution. It involves both temporary and permanent controls.

Subd. 48. Special Waters. Either a trout stream as listed in Minn. R. 6264.0050, subp. 4 or a Calcareous Fen and listed in Minn. R. 7050.0180 subp. 6b.

Subd. 49. Surface Water or Waters. All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private, except

that surface waters do not include treatment basins or ponds that were constructed from upland.

Subd. 50 Temporary Erosion Protection. Methods employed to prevent erosion during construction activities. Examples of temporary erosion protection include, but are not limited to: straw, wood fiber blanket, wood chips, vegetation, mulch, and rolled erosion control products. Vegetated or Grassy Swale means a vegetated earthen channel that conveys Stormwater, while treating the Stormwater by biofiltration. Such swales remove pollutants by both filtration and infiltration.

Subd. 51. Waters of the State. (as defined in Minn. Stat. § 115.01, subd. 22) All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Subd. 52. Wet Detention Facility. A permanent man-made structure, containing a permanent pool of water, used for the temporary storage of runoff.

Subd. 53. Wetlands. has the meaning given under Minnesota Rule, part 8420.0111.

Subd. 54. If words or phrases are not defined in this chapter, then words or phrases shall be interpreted to have the meaning they have in common usage or those as defined by the Minnesota NPDES Construction Stormwater permit No. MN R100001 (construction permit). Words or phrases shall be interpreted so as to give this chapter its most reasonable application.

1007.03 Findings. The city finds that uncontrolled stormwater runoff and construction site erosion from land development and land disturbing activity 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. In addition, extraordinary public expenditures may be required for the protection of persons and property in areas which may be affected by unplanned land use. Specifically, uncontrolled soil erosion and stormwater runoff can:

Subd. 1. Threaten public health, safety, property and general welfare by increasing runoff volumes and peak flood flows and overburdening storm sewers, drainage ways and other storm drainage systems;

Subd. 2. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, toxics, debris, bacteria, pathogens, biological impairments, thermal stress and other pollutants;

Subd. 3. Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures;

Subd. 4. Undermine floodplain management efforts by increasing the incidence and levels of flooding;

Subd. 5. Alter wetland communities by changing wetland hydrology and increasing pollutant loads; and

Subd. 6. Impact groundwater by reducing recharge and increasing potential pollutant loading.

1007.04 Purpose. The general purpose of this ordinance is to establish a chapter with regulatory requirements for land development and land disturbing activities within the city aimed at minimizing the threats to public health, safety, public and private property and natural resources from construction site erosion and post-construction stormwater runoff. Specific purposes are to establish performance goals that will:

Subd. 1. Meet minimum impact design standards (MIDS) performance goals;

Subd. 2. Assist in meeting construction stormwater general permit requirements;

Subd. 3. Assist in meeting total maximum daily load (TMDL) plan waste load allocations for impaired waters through quantification of load reductions;

Subd. 4. Protect public and private property and natural resources from damage resulting from stormwater runoff and erosion;

Subd. 5. Ensure the annual stormwater runoff rates and volumes from post development site conditions mimic and/or reduce the annual runoff rates and volumes from predevelopment site conditions;

Subd. 6. Ensure site design minimizes the generation of stormwater runoff and maximizes pervious areas for stormwater treatment;

Subd. 7. Provide a single, consistent set of performance goals that apply to all developments;

Subd. 8. Protect water quality from pollutant loadings of sediment, suspended solids, nutrients, heavy metals, toxics, debris, bacteria, pathogens, biological impairments, thermal stress and other pollutants;

Subd. 9. Promote infiltration and groundwater recharge;

Subd. 10. Provide vegetated corridors (buffers) to protect water resources from development;

Subd. 11. Protect functional values of all types of natural waterbodies (e.g., rivers, streams, wetlands, lakes, seasonal ponds); and

Subd. 12. Sustain or enhance biodiversity (native plant and animal habitat) and support riparian ecosystems.

1007.05 Applicability. A Land Disturbance Permit shall be required prior to any proposed land development activity that meets any of the criteria Subd. 1 through Subd. 4 immediately below, unless otherwise exempted in this chapter.

Subd. 1. Any land development activity that may ultimately result in the disturbance of one or more acres of land, including smaller individual sites that are part of a Common Plan of Development.

Subd. 2. Land development activity involving discharges special or impaired waters (Minn. R. 7090).

Subd. 3. A subdivision plat that has the potential for a Land Disturbance Activity.

Subd. 4. Any land development activity, regardless of size, that the city determines is likely to cause an adverse impact to an environmentally sensitive area or other property.

1007.06 Exemptions. The following activities shall be exempt from all of the requirements of this chapter:

Subd. 1. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work.

Subd. 2. Construction, installation, and maintenance of electric, telephone, and cable television utility lines or individual service connections to these utilities.

Subd. 3. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

Subd. 4. Emergency work to protect life, limb, or property and emergency repairs. However, if the land disturbing activity would have required an approved SWPPP except for the emergency, the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan-approving authority or the City when applicable.

Subd. 5. Routine agricultural activity such as tilling, planting, harvesting, and associated activities. Other agricultural activities are not exempt including activities such as construction of structures.

Subd. 6. Forestry.

1007.07 Industrial or Construction Activity Discharges. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the MS4. Any person responsible for a property or premise, who is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm sewer system. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

1007.08 Land Disturbance Permit (LDP) Application Process.

Subd. 1. Pre-application meeting. The city may facilitate a pre-application meeting with the applicant, city staff (or their authorized representative), and possibly staff of other relevant agencies prior to submission of a permit application. The purposes of the meeting are to understand the general parameters of the proposed project and to convey the provisions of the chapter.

Subd. 2. Application. A complete application generally including signed application, application fee, compliant SWPPP, prepared by a Certified SWPPP Designer, consistent with the erosion, sediment, and waste control requirements in the most recent version of the NPDES/SDS construction stormwater general permit, supporting calculations and modeling reports demonstrating the permanent treatment requirements meet the MIDS performance goals, any necessary supplemental maps, Permanent Stormwater Maintenance Plan, a completed Minnesota Pollution Control Agency SWPPP Checklist, and any information required by this ordinance and such supplemental information as the City may, by written notification, require.

Subd. 3. Application review. The applicant shall not commence any construction activity subject to this chapter until a permit has been authorized by the city. Once a complete application is accepted by the City a review and decision on the permit application shall be completed by the City within 60 days of the receipt and acceptance of a complete permit application. This time limit may be extended in accordance with M.S. § 15.99. The city will work with the necessary state, county, and local agencies to complete the review. The city shall review all information in the permit application including proposed stormwater practices, hydrologic models, and design methodologies and certify compliance with this chapter.

Subd. 4. Rejected application. The City shall make a determination regarding the completeness of a permit application within 15 business days of the receipt of the application. If the City determines the application is not complete, the application must be rejected. If the application is rejected the applicant will be notified of the rejection in writing, including the reasons for the rejection and the application fee will be refunded. Once rejected, a new application must be submitted for approval before any activity may begin. All land use and building permits shall also be rejected until the applicant has received an authorized permit.

Subd. 5. Permit authorization. If the city determines that the application meets the requirements of this chapter, the city may issue a permit approval authorizing the project or activity. Approval will be in written form from the city to the applicant. Approval may be granted with Conditions as stated in 1007.11. Any Conditions of the permit approval shall become part of the permit and the applicant shall comply with as required.

Subd. 6. Permit denial. If the city determines the SWPPP does not meet the requirements of this chapter, the SWPPP must be denied and no permit shall be issued. If the SWPPP is denied, the applicant will be notified of the denial in writing including reasons for the denial. Once denied, a new application, including application fee, must be resubmitted for approval before any activity may begin. All land use and building permits shall also be denied until the applicant has an authorized permit.

Subd. 7. Modification of permitted plans. The applicant must amend an approved SWPPP to include additional requirements such as additional or modified best management practices (BMPs) designed to correct problems whenever:

- A. There is a change in design, construction, operation, maintenance, weather or seasonal conditions that has a significant effect on the discharge of pollutants to surface water or underground water.
- B. Inspections or investigations by site operators, local, state or Federal or other agency officials indicate the plans are not effective in eliminating or significantly minimizing the discharge of pollutants to surface water or underground water or that the discharges are causing water quality standard exceedances.
- C. The plan is not achieving the general objectives of minimizing pollutants in stormwater discharges associated with construction activity.

1007.09 LDP Chloride Management Requirements. An applicant for a permit for land disturbing activity on property other than individual single family home sites must provide a plan for post-construction management of chloride use on the site that includes, at a minimum: designation of an individual authorized to implement the

chloride-use plan; and designation of a Minnesota Pollution Control Agency Smart Salting – certified salt applicator engaged in the implementation of the chloride-use plan for the site.

1007.10 Fees. All applications for a Land Disturbance Permit must be accompanied by an application fee set forth in Section 210 - Fees of the City Code as determined by ordinance of the City Council. Application fees shall approximate the direct and indirect costs associated with issuing the permit, including but not limited to costs incurred by the City for an initial and one supplementary engineering review by the City Engineer or other City staff. In the event more than two reviews are necessary, the City may require additional fees to reimburse the City for actual costs incurred by the City for all necessary reviews, and may require the applicant to deposit with the City a sum consistent with the estimated cost of all such necessary reviews. The City may also establish service fees for all inspections by the City occurring after completion of construction as determined by ordinance of the City Council, including any necessary engineering review, which fees shall be due from the permit holder and then current owner of the property within 30 days of invoice by the City. Unpaid inspection fees may be assessed against the property as a service fee pursuant to Minn. Stat. 514.67.

1007.11 Duration. Plan approval will expire one year after 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 city for an extension of time to commence construction setting forth the reasons for the requested extension, the city may grant one extension of not greater than one year. Receipt of any request for extension shall be acknowledged by the city within 15 days. The city shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

1007.12 Conditions. An Application may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements of this chapter are met. Conditions may 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 insure buffering and require the conveyance to the city or other public entity of necessary lands or easements.

1007.13 SWPPP Criteria.

Subd. 1. Construction (Temporary) Criteria. Temporary erosion, sediment, and waste control requirements during construction. The SWPPP shall conform to the current SWPPP requirements of NPDES/SDS construction stormwater general permit.

Subd. 2. Permanent (Post Construction) SWPPP Stormwater management requirements. The intent of this ordinance is to follow the Stormwater volume reduction performance goals based on the Minimal Impact Design Standards

(MIDS) developed by the MPCA. Any applicant for a permit resulting in site disturbance that ultimately creates one or more acres of new impervious surface must meet all of the following stormwater performance goals:

- A. New development volume control. For new, nonlinear developments that create one or more acres of new impervious surface on sites without restrictions, stormwater runoff volumes will be controlled and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from all impervious surfaces on the site.
- B. Redevelopment volume control. Nonlinear redevelopment projects on sites without restrictions that create one or more acres of new and/or fully reconstructed impervious surfaces shall capture and retain on site 1.1 inches of runoff from the new and/or fully reconstructed impervious area on the site.
- C. Linear development volume control. Linear projects on sites without restrictions that create one or more acres of new and/or fully reconstructed impervious surfaces, shall capture and retain the larger of the following:
 - 1) 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the site; or
 - 2) 1.1 inches of runoff from the net increase in impervious area on the site.
- D. Infiltration is prohibited in the following areas: (See Part III.D.5.a(3)(a)1) of the MS4 Permit):
 - 1) Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the MPCA;
 - 2) Where vehicle fueling and maintenance occur;
 - 3) With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock;
 - 4) Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater.
 - 5) Within well head protection areas or high vulnerability Drinking Water Supply Management Areas (DWSMA).

- E. Mill & overlays, reclamation and/or other resurfacing activities shall not be required to meet any stormwater performance goals.

- F. Flexible treatment options for sites with restrictions (as found in the MIDS design sequence flowchart). Applicant shall fully attempt to comply with the appropriate performance goals described above. Options considered and presented shall examine the merits of relocating or reducing project elements and impervious surface to address varying soil conditions and other constraints across the site. If full compliance is not possible due to any of the factors listed below, the applicant must document the reason. If site constraints or restrictions limit the full treatment goal, the following flexible treatment options shall be used:
 - 1) Applicant shall document the flexible treatment options sequence starting with Alternative #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed. Applicants must document the specific reasons why Alternative #1 cannot be met based on the factors listed below. If Alternative #2 cannot be met then Alternative #3 shall be met. Applicants must document the specific reasons why Alternative #2 cannot be met based on the factors listed below. When all of the conditions are fulfilled within an alternative, this sequence is completed.
 - 2) Volume reduction techniques considered shall include infiltration, reuse and rainwater harvesting, and canopy interception and evapotranspiration and/or additional techniques included in the MIDS Calculator and the Minnesota Stormwater Manual.
 - 3) Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques.
 - 4) Factors to be considered for each alternative will include:
 - a) High groundwater;
 - b) Hotspots or contaminated soils;
 - c) Drinking water source management areas or within 200 feet of drinking water well;
 - d) Zoning, setbacks or other land use requirements;

- e) Poor soils (infiltration rates that are too low or too high).

Subd. 3. Alternative #1. Applicant attempts to comply with the following conditions:

- A. Achieve at least 0.55-inch volume reduction from all impervious surfaces if the site is new development or 0.55-inch volume reduction from the new and/or fully reconstructed impervious surfaces for a redevelopment site;
- B. Remove 75% of the annual total phosphorous (TP) load from all impervious surfaces if the site is new development or 75% of annual TP from the new and/or fully reconstructed impervious surfaces for a redevelopment site; and,
- C. Options considered and presented shall examine the merits of relocating or reducing project elements and impervious surface to address varying soil conditions and other constraints across the site.

Subd. 4. Alternative #2. Applicant attempts to comply with the following conditions:

- A. Achieve volume reduction to the maximum extent practicable;
- B. Remove 60% of the annual total phosphorous (TP) load from all impervious surfaces if the site is new development or 60% TP from the new and/or fully reconstructed impervious surfaces for a redevelopment site; and
- C. Options considered and presented shall examine the merits of relocating or reducing project elements and impervious surface to address varying soil conditions and other constraints across the site.

Subd. 5. Alternative #3. Off-site treatment. Mitigation equivalent to the performance of 1.1 inches of volume reduction for new development or from the new and/or fully reconstructed impervious surface described above in this section (including banking or cash) can be performed off-site to protect the receiving water body. Off-site treatment shall be achieved in areas selected in the following order of preference:

- A. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity;

- B. Locations within the same Department of Natural Resource (DNR) catchment area (Hydrologic Unit 08) as the original construction activity;
- C. Locations within the next adjacent DNR catchment area upstream;
and
- D. Locations anywhere within the city's jurisdiction.

Subd. 6. The MIDS Design Sequence Flowchart can be found in the Minnesota Stormwater Manual.

Subd. 7. The site shall be designed to provide an emergency spillway and designated overflow route for the 100-year, 24-hour storm. The spillway and overflow route must be able to safely pass overflows through the structure without creating damaging conditions downstream of the facility.

1007.14 Models, Methodologies, and Computations. Final site design and choice of permanent stormwater volume reduction practices shall be based on outcomes of the MIDS calculator (or other model that shows the performance goal can be met) and shall meet the performance goals of this chapter.

1007.15 Applicant Inspections and Maintenance Responsibilities. The applicant is responsible for:

Subd. 1. To complete and pay all costs associated with required inspections and maintenance prescribed by the SWPPP. Construction inspections must be completed by a Certified SWPPP Inspector/Site Manager.

Subd. 2. Submission of as-builts, and information demonstrating that the stormwater facilities conform to design specifications.

Subd. 3. For the completion of the long-term inspections and maintenance of the site in accordance with approved Permanent Stormwater Maintenance Plan as submitted with the original LDP application.

Subd. 4. Retaining copies and records of all inspections and maintenance throughout the life of the facilities during and after construction for all privately-owned storm sewer and stormwater treatment practices on the site. Provide copies of such records to City upon request.

Subd. 5. Permit completion. Before work under the permit is deemed complete, the permittee must submit as-builts, a long term maintenance plan and information demonstrating that the stormwater facilities conform to design specifications. The city will verify that all design specifications have been met.

1007.16 Inspection by City. The City reserves the right to conduct inspections on a regular basis to ensure that both temporary and permanent stormwater management and erosion and sediment control measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. The City shall conduct periodic inspections in future years after completion of the project at the cost of the permit holder and then owner of the property. Mandatory inspections may be conducted as follows:

Subd. 1. Following installation of initial construction BMP's and before any land disturbing activity begins;

Subd. 2. Before or during the installation of permanent stormwater treatment systems;

Subd. 3. Upon notification from the Applicant that the project is completed at the completion of the project; and

Subd. 4. Within one year of project completion and at least once every five years thereafter.

1007.17 City-Owned Stormwater Facilities.

Subd. 1. Acceptance of city-owned facilities. Before work under the permit is deemed complete, the permittee must submit as-builts and a maintenance plan demonstrating at the time of final stabilization that the stormwater facilities conform to design specifications. A final inspection shall be required before the city accepts ownership of the stormwater facilities.

Subd. 2. Maintenance. The city shall perform maintenance of city-owned stormwater facilities in accordance with their MS4 and Stormwater Pollution Prevention Program and other regulatory requirements.

1007.18 Notification by City. The initial contact will be to a party or parties listed on the application and/or the SWPPP. Forty-eight hours after notification by the city or 72 hours after the failure of erosion control measures, whichever is less, the city, at its discretion, may begin corrective work at the expense of the permit holder and then owner of the property. The permit holder shall reimburse the City for the cost of all corrective work, including any private contractor work, staff time and attorney fees, as a service fee within 30 days of invoice by the City. Failure of the permit holder and then owner of the property shall entitle the City to assess the cost to the property as a service fee.

1007.19 Violations and Enforcement. The Applicant shall implement and comply with the SWPPP and any issued LDP prior to, during and after any construction or land disturbing activity. All stabilization measures shall be implemented and maintained until all grading, excavation and construction work has ended. All post

construction storm water management requirements shall be maintained by the permit holder and property owner to the designed SWPPP requirements.

Subd. 1. The City shall be responsible for enforcing this ordinance.

Subd. 2. Enforcement tools. In the event that any holder of an approved SWPPP or LDP acts contrary to the SWPPP or violates the terms of the LDP, is found non-compliant with the permit, refuses to complete required inspections, refuses to provide required records, refuses to allow inspections or implements site development construction practices in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of Detroit Lakes may administratively suspend the LDP and issue an administrative Order to stop work immediately. The holder of the approved SWPPP or LDP shall immediately stop work and all construction, develop a cleanup and restoration plan, obtain the right of way from the adjoining property owner if necessary, implement the cleanup and restoration plan within 48 hours and repair any damage caused by storm water runoff. An inspection by the City must follow before the construction project work can resume.

Subd. 3. If, in the discretion of the City, the holder of the approved SWPPP or LDP or property owner does not repair the damage caused by the storm water runoff and restore the property, fails to comply with the administrative Order to stop work or in any other way fails to comply with the provisions and requirements of this ordinance, the City is authorized to take any combination of the following enforcement actions:

- A. The City may declare the property upon which the violation exists a nuisance and Order the nuisance abated by the City at the expense of the permit holder and property owner, or the City may hire a licensed contractor to perform the required remedial work at the expense of the permit holder and property owner. An inspection by the City must follow before the construction project work can resume;
- B. Continue indefinitely any administrative Order to stop work and withhold inspections or issuance of certificates of occupancy or approvals;
- C. Suspend all land use permits and building permits associated with the property where the violation exists until the violation is eliminated;
- D. Revoke any permit issued by the City associated with the property where the violation exists upon hearing, held after ten (10) days written notice served upon the applicant, permit holder or owner of the property by first class mail at the last known address or, if

property is not occupied, served by posting notice on the property at least ten (10) days before the hearing;

- E. Charge applicant for all costs associated with the enforcement, including all costs associated with abatement of the nuisance, eliminating the violation, correcting the failure, restoring the property or remediating damage. Within thirty (30) days after enforcement the permit holder and owner of the property will be notified of the cost of enforcement or abatement, including all remedial action, and all administrative and court costs incurred in enforcement by certified or registered mail, or if the property is not occupied, served by posting it on the property. The holder of the permit and owner of the property shall be personally liable for the cost of enforcement and/or abatement. If the amount due is not paid within thirty (30) days after such written notice, the City may assess the cost of enforcement and abatement as a current service fee under the City's police power against the property upon hearing held after ten (10) days written notice served upon the owner of the Property in person or by certified or registered mail, or if the Property is not occupied, served by posting it on the Property.
- F. Bring other actions against the applicant to recover costs of remediation or meeting the terms of this ordinance;
- G. Any person, firm or corporation failing to comply with or violating any of these regulations and this ordinance shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. Each day that a separate violation exists shall constitute a separate offense.
- H. The City may enforce this Ordinance by civil action and pursue any remedy available at law or equity, including but not limited to temporary restraining orders, injunctions both mandatory and prohibitory as well as damages. In any such action, the City shall be entitled to recover its costs, disbursements and attorney fees.
- I. This Ordinance may be enforced through the City of Detroit Lakes Administrative Penalty Ordinance.

Subd. 4. Notification of violation. The City shall notify the permit holder of the violation as follows:

- A. Initial contact. The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, 48 hours after notification by the City

or 72 hours after the failure of erosion and sediment control measures, whichever is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish a contact, the City may proceed with corrective work. There are conditions when time is of the essence in controlling erosion. During such a condition the City may take immediate action, and then notify the applicant as soon as possible.

- B. Erosion off site. If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the 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, may more than seven calendar days go by without corrective action being taken. If, in the discretion of the City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required or hire a licensed contractor to do the remedial work at the expense of the holder of the permit and property owner. When restoration to wetlands and other resources are required, the applicant should be required to work with the appropriate agency to ensure that the work is done properly.

- C. Erosion into streets, storm sewers, wetlands or water bodies. If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, storm sewers, wetlands, or other water bodies, prevention strategies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations. If, in the discretion of the City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required or hire a licensed contractor to do the remedial work at the expense of the holder of the permit and property owner.

1007.20 Right of Entry and Inspection. The issuance of a permit constitutes a right-of-entry for the city or its contractor to enter upon the site in perpetuity. The Applicant shall allow the city and their authorized representatives, upon presentation of credentials, to:

- Subd. 1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys;

Subd. 2. Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations;

Subd. 3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit;

Subd. 4. Inspect the stormwater management measures;

Subd. 5. Sample and monitor any items or activities pertaining to stormwater management measures; and

Subd. 6. Correct deficiencies in stormwater and erosion and sediment control measures.

1007.21 Other Controls; Conflict.

Subd. 1. The provisions of this chapter are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions the provisions of this chapter shall prevail.

Subd. 2. The provisions of this chapter are severable, and if any provision of this chapter, or application of any provision of this chapter to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this chapter must not be affected thereby.

(Ordinance No. 319, Adopted 3/11/2008)

(Ordinance No. 382, Adopted 9/9/2014)

(Ordinance No. 418, Adopted 2/13/2018)

(Ordinance No. 496, Adopted 9/13/2022)