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## CHAPTER 68 - STORMWATER MANAGEMENT

## 68.01 DEFINITIONS

Unless specifically defined below, the words or phrases used in this chapter shall have the same meaning as they have in common usage. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "must" are always mandatory and not merely directive.

Applicant: Any person or entity that applies for a building permit or for subdivision approval. Applicant also means that person's agents, employees, and others acting under that person's direction.

Authorized Enforcement Agency: Employees or designees of the director of the municipal agency designated to enforce this chapter.

Best Management Practices (BMPs): Erosion and sediment control and stormwater management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, and other management practices published by state or designated area-wide planning agencies. (Examples of BMPs can be found in the current versions of the Minnesota Pollution Control Agency's publications, "Minnesota Stormwater Manual", the United States Environmental Protection Agency's, "Stormwater Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices", Minnesota Department of Transportation's, "Erosion Control Design Manual" and "Erosion Control Handbook for Local Roads", and the Metropolitan Council's "Minnesota Urban Small Sites BMP Manual" as supplemented and amended from time to time).

Buffer: A protective vegetated zone located adjacent to a natural resource, such as a lake stream or wetland that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through filtering pollutants and providing adjacent habitat. For a stream, the width of a buffer strip is the width along each bank of the stream. Therefore, a 30 foot wide stream with 100-foot wide buffer strips has a total width of 230 feet. Acceptable buffer vegetation includes preserving existing predevelopment vegetation and/or planting locally distributed native Minnesota trees, shrubs and grassy vegetation.

City Water Plan: A comprehensive local water management plan as the same may be prepared and adopted by City pursuant to Minnesota Statutes, Chapter 462.

Developer: A person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

Discharge: The release, conveyance, channeling, runoff, or drainage of stormwater, including snowmelt, from a construction site.

Disturbance: see definition for Land Disturbing Activity.

Drainageways: Any natural or constructed channel which provides a course for water flowing either continuously or intermittently.

Energy Dissipation: This refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

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 people and nature.

Erosion Control: Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Erosion and Sediment Control Practice: The management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by the state, City, or local watershed group, whichever is more stringent.

Exposed Soil Areas: All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) 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 stockpiles or surcharge areas of gravel, concrete or bituminous. Once soil is exposed it is considered "exposed soil," until it meets the definition of "final stabilization."

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.

Final Stabilization: Final stabilization means that:

- a. all soil disturbing activities at the site have been completed, and
- b. a uniform perennial vegetative cover with a density of seventy-five (75) percent of the native background vegetative cover for unpaved areas has been established, or equivalent permanent stabilization measures have been employed.

Simply sowing grass seed is not considered final stabilization. (Examples of vegetative cover practices can be found in the current version of the Minnesota Department of Transportation's publications, "2003 Seeding Manual", "2003 District Seeding Recommendations", and "Standard Specifications for Construction", as supplemented and as amended from time to time.)

Fuel Reduction Zone: An area around a structure or structures in which the continuity and arrangement of vegetation is modified through the removal of stressed, diseased, dead or dying trees and shrubs, thinning and prune of larger trees and shrubs to eliminate the continuous fuel surrounding a structure.

Illicit Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 68.06 of this chapter.

Illicit Connections: An illicit connection is defined as either of the following:

- a. any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but no limited to any conveyance which allows any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- b. any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Impervious Surface: A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

Land Disturbing Activity: Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City's jurisdiction. This may include, but is not limited to, 1) a disturbance to the land that results in a change in the topography, 2) disturbance of the existing soil cover (both vegetative and non-vegetative cover), or 3) a disturbance of the existing soil topography that may result in accelerated stormwater runoff. Land disturbing activity includes clearing and grubbing, grading, excavating, transporting and filling of land for all new construction and redevelopment. Ongoing operations and maintenance activities for existing facilities such that any single activity does not exceed project sizes specified in paragraphs D and E of Section 68.03 are not considered land disturbing activity.

MPCA: Minnesota Pollution Control Agency.

MS4: Municipal Separated Storm Sewer System.

Native Vegetation: Native vegetation means plant species that are indigenous to the local region, or that expand their range into the local region without being intentionally or unintentionally introduced by human activity and are classified as native in the Minnesota Plant Database.

Non-Stormwater Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

Normal Water Level: Normal water level means the water level in a natural water body or constructed pond having an outlet or overflow control structure that is the lowest water level held by the outlet or overflow structure.

NPDES: National Pollutant Discharge Elimination System , the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits pursuant to Sections 301, 318, 402, and 405 of the Clean Waters Act (33 C.F.R. SS 1317, 1328, 1342, and 1345), authorizing the discharge of pollutants to waters of the United States.

NRCS: Natural Resources Conservation Service.

Operator: The person (usually the general contractor), designated by the owner, who has day-to-day operational control and/or the ability to modify project plans and specifications related to the stormwater management plan.

Ordinary High Water Level: Minnesota Statute 103G.005, subdivision 14 states that the Ordinary High Water level means the boundary of waterbasins, watercourses, public waters, and public waters wetlands, and

- a. the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- b. for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- c. for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

The term ordinary high water mark is further defined in Minnesota Rule 6120.2500, subpart 11, as amended from time to time. Ordinary high water marks are determined by the Minnesota Department of Natural Resources' area hydrologist.

Outstanding resource value waters: Outstanding resource value waters are waters of the state with high water quality, wilderness characteristics, unique scientific or ecological significance, exceptional recreational value, or other special qualities which warrant stringent protection from pollution.

Paved Surface: A constructed hard, smooth surface made of gravel, asphalt, concrete or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots.

Permanent Cover: Means "final stabilization." Examples include vegetative cover composed primarily of grasses, and hard surfaces, such as gravel, asphalt, and concrete. See also the definition of "final stabilization."

Phased and Connected Land Disturbing Activities: Two or more projects that include land disturbing activities by the same developer that will have environmental effects on the same geographic area and will occur sequentially over a three-year time period.

Sediment: The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest on the earth's surface either above or below water level.

Sedimentation: The process or action of depositing sediment.

Sediment Control: The methods employed to prevent sediment from leaving the development site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, other appropriate measures, and temporary or permanent sedimentation basins.

Shoreland: All lands located within the following distance from the normal highwater mark of a public water:

- a. 1,000 feet from a lake pond or reservoir;
- b. 300 feet from a river or stream.

Soil: The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this chapter stockpiles of gravel, aggregate, concrete or bituminous materials are not considered "soil" stockpiles.

Special Waters: Special Waters are as defined in the MPCA's general permit to discharge storm water associated with construction activity under the National Pollutant Discharge Elimination System/State Disposal System permit, part B.1 through B.8 of Appendix A (Permit No: MN R100001 and all subsequent versions). Special waters include but are not limited to DNR designated Trout Stream and MPCA designated Outstanding Resource Value Water as per most recent listing.

Stabilized: The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, or other material that prevents erosion. Simply sowing grass seed is not considered stabilization.

Stormwater: Under Minnesota Rule 7077.0105, subpart 41b stormwater, "means precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage." (According to the Federal Code of Regulations under 40 CFR 122.26 [b][13], "Stormwater means stormwater runoff, snow melt runoff and surface runoff and drainage."). Stormwater does not include construction site dewatering.

Stormwater Detention Facility: A permanent constructed ponding facility, used for the storage of runoff to control the peak discharge rates and provide gravity settling of pollutants.

Stormwater Management Plan: A joint stormwater management and erosion and sediment control plan that is prepared in compliance with the requirements for a Stormwater Pollution Prevention Plan (SWPPP) in the Minnesota NPDES General Stormwater Permit for Construction Activity (MN R100001 or subsequent permits). A Stormwater Management Plan when implemented will provide for both temporary and permanent control of soil erosion on a parcel of land, prevent off-site non-point source pollution, and control stormwater rates and volumes. Land disturbing activities disturbing greater than one acre of land are required to obtain a Minnesota NPDES General Stormwater Permit for Construction Activity in addition to complying with requirements of the City.

Structure: Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

Subdivision: Any tract of land divided into building lots for private, public, commercial, industrial, etc. development. Minnesota Rule 6120.2500, subpart 17 defines subdivision as, ". . . land that is divided for the purpose of sale, rent, or lease, including planned unit development."

SWCD: Soil and Water Conservation District.

SWPPP: Storm Water Pollution Prevention Plan.

Temporary Protection: Short-term methods employed to prevent erosion. Examples of such protection include: straw, mulch, erosion control blankets, wood chips, and erosion netting.

TMDL: Total Maximum Daily Limits.

Trout Streams: Trout streams are those stream segments listed in Minnesota Rules 6264.0050, subpart 4.

Urban: Of, or relating to, characteristic of, or constituting a city.

Vegetated or Grassy Swales: A vegetated earthen channel that conveys stormwater, while treating the stormwater by biofiltration. Such swales remove pollutants by both filtration and infiltration.

Wetlands: As defined by the Wetland Conservation Act, as amended from time to time.

## 68.02 PURPOSE

The purpose of this chapter is to control or eliminate stormwater pollution, soil erosion and sedimentation within the City. This chapter establishes standards and specifications for erosion and sediment control and stormwater management, which minimize stormwater flow rates and pollution, soil erosion and sedimentation, flooding; and prohibit illicit connections and illegal discharges to the stormwater management system.

## 68.03 SCOPE AND EFFECT

### A. Applicability

1. All applicants for a building permit or subdivision approval shall be in compliance with the requirements of this chapter.
2. Small site projects as defined in Section 68.08 E shall be in compliance with an Erosion and Sediment Control Plan.
3. Large site projects as defined in Section 68.03 D shall be in compliance with the Stormwater Management Plan approved for the project.
4. Harvesting or removal of silvicultural (forestry) crops shall be in compliance with an Erosion and Sediment Control Plan approved for the project.
5. Exempted projects are encouraged to follow applicable Best Management Practices.
6. No building permit shall be issued nor shall a subdivision be approved until the stormwater management plan has been approved or a waiver of the stormwater management plan has been obtained in conformance with the provisions of this chapter.

B. Plan Compliance

All stormwater management plans must be prepared in accordance with the City Plans, City permits, TMDL allocation plans, and other special district plans as shall be adopted and amended from time to time.

C. Joint Responsibility

The owner and the general contractor shall both be identified on the stormwater management plan permit application. The general contractor who signs the application is jointly responsible with the owner for compliance with the permit conditions.

In the event that any provision of this Chapter conflicts with any other applicable plan or regulation, the more restrictive regulation shall apply.

D. Large Site Projects

Large site projects requiring a Stormwater Management Plan in accordance with the Site Plan Review Checklists, which can be found on the City website, and Section 68.05 of this chapter are defined as any one of the following:

1. Commercial or Industrial Land Use – all land disturbing activities greater than 4000 square feet for commercial and industrial land uses, or phased and connected land disturbing activities that cumulatively disturb more than 4000 square feet within a three year period.
2. Subdivisions, except lot splits that will result in no more than four (4) single-family lots and will not require the construction of shared access drives or other road improvements.
3. Single-family properties with greater than 1 acre of disturbed land area.
4. Any alteration of the course, current, or cross-section of natural or constructed drainageways.
5. Any other land disturbing activities greater than 1 acre not exempted in paragraph G of Section 68.03.
6. No land disturbing activities shall be permitted in slopes of eighteen (18) percent or more unless special arrangements and protective measures are developed as part of the Stormwater Management Plan, approved and secured by appropriate financial assurances as per paragraph M of Section 68.07.
7. All land disturbing activities within the shoreland overlay must comply with requirements set forth in Section 69.05 of this Code and include compliance with those requirements in the Stormwater Management Plan.

#### E. Small Site Projects

Small site projects requiring an erosion and sediment control plan in accordance with the Site Plan Review Checklists, which can be found on the City website, and Section 68.04 of this chapter are redevelopment and new construction defined as follows:

1. Commercial or Industrial Land Use – all land disturbing activities greater than 1,000 square feet and less than 4,000 square feet for commercial and industrial land uses.
2. Single-family properties with more than 1,000 square feet within any shoreland area, and more than 6,000 square feet of disturbed area outside of any shoreland area but less than 1 acre of land disturbing activity.
3. Public and private roads or driveways on slopes any part of which exceeds 12%.
4. Any other land disturbing activities greater than 1,000 square feet not exempted in paragraph G of Section 68.03.
5. No land disturbing activities shall be permitted in slopes of eighteen (18) percent or more unless special arrangements and protective measures are developed, approved and secured by appropriate financial assurances as per paragraph M of Section 68.07.
6. All land disturbing activities within the shoreland overlay must comply with requirements set forth in Section 69.05 of this Code and include compliance with those requirements in the Stormwater Management Plan.

#### F. Use of Best Management Practices.

All land disturbing activities not specifically included in either the large site or small site classification shall incorporate erosion and sediment control best management practices when undertaking land disturbing activities.

All harvesting, thinning or removal of silvicultural (forestry) activities shall follow the guidelines set forth by the Minnesota Forest Resources Council's publication *Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers* (1999, Minnesota Forest Resources Council, St. Paul, Minnesota. <http://www.frc.state.mn.us/FMgguide/Guidebook.html>).

#### G. Exemptions.

The provisions of this chapter do not apply to:

1. Any activity that disturbs less than 1,000 square feet of land or any activity that disturbs less than 6,000 square feet on single-family properties outside any shoreland areas;
2. Any site plans approved on or before the effective date of this chapter;
3. A lot for which a building permit has been approved on or before the effective date of this chapter;
4. Ongoing operations and maintenance activities for existing facilities such that any single activity does not exceed project sizes specified in paragraphs C and D of Section 68.03.
5. Installation and maintenance of fence, sign, telephone, and electric poles and other kinds of posts or poles;
6. Minor land disturbance activities such as home gardens and lawn maintenance; or
7. Tilling, planting, or harvesting of agricultural or horticultural crops, or planting of silvicultural (forestry) crops, or for such removals for maintenance activities, but such activities shall implement SWCD and NRCS approved erosion control practices.
8. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.

H. NPDES General Stormwater Permit for Construction Activity

Land disturbing activities disturbing greater than one acre of land are required to obtain a Minnesota NPDES General Stormwater Permit for Construction Activity in addition to complying with requirements of the City.

I. Waiver

The City Council may waive any requirement of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in Sections 68.06 and 68.08. 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 said standards and requirements.

Ord. No. 3738 07/02/07

**68.04 SMALL SITE PROJECTS; EROSION AND SEDIMENT CONTROL PLAN; APPLICATION PROCEDURES**

A. Application Process.

1. A written application for erosion and sediment control plan approval, along with the proposed erosion and sediment control plan, shall be filed with the Engineering Department, when applicable as per paragraph D of 68.03 of this chapter. The application shall include a statement indicating the purpose for which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter and the City's Plan Review Checklist.
2. Two sets of clearly legible copies of drawings and required information shall be submitted to the Engineering Department and shall be accompanied by all applicable fees. 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 1 inch equals 50 feet.
3. The erosion and sediment control plan must be reviewed and approved by the City Engineer prior to issuance of a small site erosion and sediment control plan permit.
4. Checklist. A completed erosion and sediment control plan checklist specifying the erosion and sediment control practices to be utilized shall be submitted. Both the applicant and the contractor shall sign the erosion and sediment control plan checklist certifying their understanding of the measures and that penalties may be exacted by the City for failure to comply with the measures agreed upon.
5. Additional Information. Any other information pertinent to the particular project that, in the opinion of the City, is necessary for the review of the project.

Ord. No. 3738 07/02/07      Ord. No. 4019 12/21/2015

**68.05 Large Site Projects; Stormwater Management Plan Application Procedures**

A. Application Process.

A written application for stormwater management plan approval, along with the proposed stormwater management plan, the stormwater pollution prevention plan (SWPPP) required by the NPDES General Construction Permit, and site construction plan, shall be filed with the Engineering Department, when applicable, as per paragraph C of Section 68.03 of this chapter. The application shall include a statement indicating the purpose for which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter and the City's Plan review Checklist. Prior to applying for approval of a stormwater management plan, an

applicant may have the stormwater management plan reviewed by the appropriate departments of the City. The SWPPP may be substituted for applicable portions of the stormwater management plan.

The stormwater management plan must be reviewed and approved by the City Engineer prior to issuance of a large site project stormwater management permit.

B. Models/Methodologies/Computations.

Hydrologic models and design methodologies used for determining runoff characteristics and analyzing stormwater management structures shall be approved by the City Engineer. Plans, specifications and computations for stormwater management facilities submitted for review shall be signed by a registered professional engineer. All computations shall be submitted for review, unless otherwise approved by the City Engineer.

C. Legal documents

Legal documents for securing temporary or permanent easements as necessary shall be submitted for review.

Ord. No. 3738 07/02/07      Ord. No. 4019 12/21/2015

**68.06 STORMWATER AND URBAN RUNOFF POLLUTION**

A. Illegal Disposal.

1. No person shall throw, deposit, place, leave, maintain, or keep or permit to be thrown, placed, left, maintained or kept, any refuse, rubbish, garbage, or any other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private plot of land in the City, so that the same might be or become a pollutant, except in containers, recycling bags, or other lawfully established waste disposal facility.
2. No person shall intentionally dispose of leaves, dirt, or other landscape debris into a street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any fabricated natural conveyance.

B. Illicit Discharges and Illicit Connections.

1. Purpose and Intent. The purpose of this section is to provide for the health safety and general welfare of the citizens of the City of Winona, Minnesota, through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law
2. The objectives of this section are:

- a. To regulate the contribution of pollutants to the Municipal Separate Storm Sewer System (MS4) by stormwater discharges by any user;
- b. To prohibit illicit connections and discharges to the MS4 or water courses; and
- c. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this subchapter.

3. Discharge Prohibitions

- a. Prohibition of Illicit Discharges
  - i. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
  - ii. The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
    - The following discharges are exempt from discharge prohibitions established by this subchapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated – typically less than 1 PPM chlorine), firefighting activities, and any other water source not containing pollutants;
    - Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety;
    - Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency two business days prior to the time of the test; and
    - 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 Federal Environmental Protection Agency, 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.

4. Prohibition of illicit connections.

- a. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
- b. 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 the connection.
- c. A person is considered to be in violation of this subchapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

5. Suspension of MS4 Access

- a. Suspension due to illicit discharges in emergency situations. The City of Winona may, without prior notice, suspend MS4 discharges access to a person when the suspension is necessary to stop an actual or threatened discharge which represents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take the steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.
- b. Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this subchapter may have their MS4 access terminated if the termination would abate or reduce an illicit discharge. The authorized enforcement agency.

6. Industrial or Construction Activity Discharges.

- a. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the City of Winona prior to the allowing of discharges to the MS4.

7. Monitoring of Discharges

- a. Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- b. Access to facilities.
  - i. The City of Winona shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with this

subchapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

- ii. Facility operators shall allow the City of Winona ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- iii. The City of Winona shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- iv. The City of Winona has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- v. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Winona and shall not be replaced. The costs of clearing the access shall be borne by the operator.
- vi. Unreasonable delays in allowing the City of Winona access to a permitted facility is a violation of a storm water discharge permit and of this subchapter. A person who is the operator of the facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this subchapter.
- vii. If the City of Winona has been refused access to any part of the premises from which stormwater is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

8. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the use of Best Management Practices (BMPs).

- a. The City of Winona will adopt requirements identifying best management practices of any activity, operation, or facility which

may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

9. Watercourse Protection.

- a. Every person owning property through which a watercourse passes, or the person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that the structures will not become a hazard to the use, function, or physical integrity of the watercourse.

10. Notification of Spills.

- a. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. the person shall take all necessary steps to ensure the discovery, containment, and cleanup of the release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Winona Public Works within 3 business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of

the establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. The records shall be retained for at least 3 years.

11. Enforcement

- a. Whenever the City of Winona finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. The notice may require without limitation:
  - i. The performance of monitoring, analysis, and reporting;
  - ii. The elimination of illicit connections or discharges;
  - iii. That violating discharges, practices, or operations shall cease and desist;
  - iv. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  - v. Payment of a fine to cover administrative and remediation costs; and
  - vi. The implementation of source control or treatment BMPs.
- b. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which the remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

12. Appeal of Notice of Violation.

- a. Any person receiving a notice of violation may appeal the determination to the authorized enforcement agency that issued the violation. The notice of appeal must be received within 15 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his or her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

13. Enforcement Measures after Appeal.

- a. If the violation had not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 15 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or

restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

14. Cost of Abatement of the Violation.

a. Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this subchapter shall become liable to the city by reason of the violation. The interest at the rate of 7% per annum shall be assessed on the balance beginning on the thirtieth day following discovery of the violation.

15. Injunctive Relief

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

16. Compensatory Action.

a. In lieu of enforcement proceedings, penalties, and remedies authorized by this subchapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, and the like.

17. Violations Deemed a Public Nuisance

a. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of the nuisance may be taken.

18. Criminal Prosecution.

- a. Any person that has violated or continues to violate this subchapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$1,000 per violation per day and/or imprisonment for a period of time not to exceed 90 days. The authorized enforcement agency may recover all attorney's fees, court costs, and other expenses associated with enforcement of this subchapter, including sampling and monitoring expenses.

19. Remedies Not Exclusive.

- a. The remedies listed in this subchapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

C. Good Housekeeping Provisions.

Any owner or occupant of property within the City shall comply with the following good housekeeping requirements:

1. No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm drain systems may occur. This section shall apply to both actual and potential discharges.
2. Runoff of water from residential property shall be minimized to the maximum extent practicable. Runoff of water from the washing down of paved areas in commercial or industrial property is prohibited unless necessary for health or safety purposes and not in violation of any other provision of the City's Code.
3. Storage of Materials, Machinery, and Equipment.
  - a. Objects, such as motor vehicle parts, containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials, shall not be stored in areas susceptible to runoff.
  - b. Any machinery or equipment which is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills, or discharges.

D. Removal of Debris and Residue.

All motor vehicle parking lots located in areas susceptible to runoff shall be kept clean of debris and residues. Such debris shall be collected and disposed of properly.

Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries, which are located in an area susceptible to runoff, shall be removed as soon as possible and disposed of properly.

Household hazardous waste may be disposed of through the County of Winona collection program or at any other appropriate disposal site and shall not be placed in a trash container.

**68.07 Erosion and Sediment Control Plan and Stormwater Management Plan Review Procedures**

**A. Process**

The review process varies according to the type of permit required (subdivision, building, or land disturbing activities not requiring a building permit).

1. Small Site Erosion and Sediment Control Plans. The applicant and contractor are encouraged to review proposed activities with the City Engineer prior to completing plans for land disturbing activities. The City Engineer may suggest alternative methods of construction and erosion and sediment control that will assist the applicant in complying with this chapter. Plans must be submitted as required under Section 68.04 of this chapter and shall be reviewed by the City Engineer.
2. Large Site Stormwater Management Plans. Stormwater management plans meeting the requirements of Section 68.05 of this chapter shall be reviewed by the City Engineer for compliance with Section 68.08 of this chapter. If the proposed activity is permitted to be administratively reviewed and approved by staff, then staff shall incorporate the findings of compliance into the review procedure. If Planning Commission or City Council approval of a project is required, the findings of the City Engineer's review for compliance under this chapter shall also be forwarded to the Planning Commission. Whether reviewed administratively or by the Council, findings of fact shall be determined and the project may be 1) approved, 2) approved with conditions, or 3) denied with findings.

**B. Duration**

Approval of an erosion and sediment control plan or stormwater management plan submitted under the provisions of this chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. Prior to the date of expiration, the applicant or their agent may submit to the Engineering Department a written request for an extension of time to commence construction activities. This request shall include the reasons for the requested extension and a projected timetable for construction and completion. An extension of not greater than one single year may be granted by the department. Receipt of any request for an extension shall be acknowledged by the department within 15 days and a final decision on the extension shall be made within 30 days of receipt.

**C. Conditions.**

A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained

in this chapter are met. Such conditions may include, but not be limited to, limiting the size, kind or character of the proposed development, requiring the construction of structures, drainage facilities, storage basins and other facilities, requiring replacement of vegetation, establishing required monitoring procedures, staging the work over time, requiring 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 Securities.

The applicant for a large site project permit shall provide security for the performance of the work described and delineated on the approved stormwater management plan and any related remedial work and legal fees in an amount equal to 125% of the engineer's estimated cost for implementation of erosion and sediment control measures and construction of permanent stormwater management practices.

The form of the security for a large site project shall be one or a combination of the following to be determined by the City:

- a. Letter of credit in a form acceptable to the City Attorney.
- b. Cash in U. S. currency or certified check.
- c. For larger stormwater facilities for large multi-home developments or commercial and industrial projects, a performance bond naming the City as a co-beneficiary in an amount equal to 125% of the total cost of both the temporary erosion and sediment control measures for construction and permanent stormwater management practices shall be posted with the City.

The applicant for a small site project permit shall not be required to provide security for the performance of the work. The applicant for a small site project permit shall be subject to the provisions of Section 68.09 – Enforcement.

E. Maintaining the Financial Security.

If at any time during the course of the work the financial security falls below 50% of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the City that the amount has fallen below 50% of the required amount the City may:

1. Withhold the scheduling of inspections and/or 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 with the City's jurisdiction.

F. Action Against the Financial Security.

The City may act against the financial security if any of the conditions listed below exist.

1. The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the erosion and sedimentation control plan or stormwater management plan.
2. The applicant fails to conform to the erosion and sedimentation control plan or stormwater management plan as approved by the City.
3. The techniques utilized under the erosion and sedimentation control plan or stormwater management plan fail within one year of installation and the owner fails to take corrective action.
4. The applicant fails to reimburse the City for corrective action taken.

G. City Use of Funds

The City shall use funds from this security to finance remedial work undertaken by the City or a private contractor under contract with the City and to reimburse the City for all direct costs incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.

H. Returning the Financial Security.

The security deposited with the City for faithful performance of the erosion and sedimentation control or stormwater management plan and any related remedial work shall be released one full year after the completion of the installation of all stormwater management measures as shown on the stormwater management plan.

I. Fees.

All applications for stormwater management plan approval and appeals shall be accompanied by a processing fee as determined by the Council and set forth in Section 51.01 of the Code.

Ord. No. 3738 07/02/07      Ord. No. 4019 12/21/2015

**68.08 Stormwater Management Plan Approval Standards**

A. Approval.

No stormwater management plan which fails to meet the standards contained in this section shall be approved.

B. Compliance with Other Plans.

All stormwater management plans must be prepared in accordance with the City Plans, City permits, TMDL allocation plans, and other special district plans as adopted and amended from time to time.

C. Compliance with NPDES Requirements.

The stormwater management plan shall contain the information required for compliance with the most recent requirements for an application for General Stormwater Permit for Construction (MN R100001) as part of the Minnesota Pollution Control Agency's NPDES/SDS in Minnesota Rules Chapter 7090, including all applicable special provisions.

D. Site Dewatering.

Water pumped from the site for dewatering purposes shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators, or other applicable BMPs for dewatering activities as described in the NPDES Construction General Permit Part IV.D. Water may not be discharged in a manner that causes erosion or flooding of the site, adjoining sites, downstream sites, or receiving channels, wetlands, or other water bodies.

E. Waste and Material Disposal.

All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of off-site and not allowed to be carried into a receiving channel, or storm sewer system, or onto adjoining properties. Management of solid and hazardous wastes materials shall meet the requirements of the NPDES Construction General Permit Part IV.F.

F. Tracking and Dust Control.

1. Each site shall have graveled roads, access drives, rock entrances and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private paved road shall be removed by street cleaning (not flushing) before the end of each workday.
2. The applicant shall keep the surface of any and all construction work areas and haul roads moist by spraying with uncontaminated water so as to prevent, not just reduce, airborne dust. This responsibility shall require the applicant to suspend construction or haul traffic until such time as the applicant can and does prevent airborne dust. The applicant shall not overspray so as to create problems, such as tracking of material onto paved surfaces, or muddy haul roads, due to the application of excess moisture.

G. Drain Inlet Protection.

All storm drain inlets shall be protected during construction until control measures are in place with an inlet floc sock, compost logs, filter berms, silt fence, rock logs, rock dams, or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication "Minnesota Stormwater Manual (2005)."

All drain inlet protection measures shall be cleaned when accumulated sediment exceeds 30% of the sediment trapping capacity.

H. Site Erosion Control

The following criteria apply only to construction activities that result in runoff leaving the site. This site shall include, as applicable, BMPs to minimize the erosion as described in the NPDES Construction General Permit Part IV.B. All such measures shall be clearly shown on the SWPPP.

1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical, and in a manner that will not erode the conveyance and receiving channels. Sheet flow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas.
2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
3. Runoff from the entire disturbed area on the site shall be controlled by meeting either subsections a and b, or a and c.
  - a. Seed all disturbed areas within seven days of final grading and temporary seed/mulch all areas that will be left inactive for more than seven days. Do not seed later than September 1<sup>st</sup>. Areas that need to be seeded after this date should be dormant seeded in late October or early November, or sodded, erosion control matting, or mulch or other equivalent soil stabilization control measure.
  - b. For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area equivalent to at least one percent of the area draining to the basin, an average depth of at least three feet, and be constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin discharge rate and velocity shall also be sufficiently low so as to not cause erosion along the discharge channel or the receiving water. The use and management of site temporary sediment basins shall meet the requirements of the NPDES Construction General Permit Part III.C.

- c. For sites with less than ten acres disturbed at one time, silt fences, rock logs, fiber logs, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fence, rock logs, or other equivalent barriers meeting generally accepted design criteria shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, rock logs, fiber logs, or equivalent control measures requires that the SWPPP include a maintenance and inspection schedule.
4. All site sediment control measures such as floc socks, compost logs filter berms, silt fences, rock logs, rock dams, or equivalent sediment barrier BMPs that minimize the discharge of sediment and other pollutants shall be in compliance of the NPDES Construction General Permit Part IV.C. All site sediment control measures shall be cleaned when accumulated sediment exceeds 30% of the sediment trapping capacity or dead storage volume.
5. Final stabilization shall be completed following completion of all land disturbing activities, including the use of perennial vegetative cover on all exposed soils or other equivalent means shall meet the requirements of the NPDES Construction General Permit Part IV.G. Within seven days of completion of all land disturbing activities, all disturbed areas must be stabilized by seeding and mulching prior to September 1st. Areas that need to be seeded after this date should be dormant seeded in late October or early November, or sodded, erosion control matting, or mulch or other equivalent soil stabilization control measure. All disturbed areas not restored to turf grass lawn shall be seeded with an approved seed mix that contains appropriate native grasses, legumes or forbs. Seed establishment procedures specified in *Restoring & Managing Native Wetland & Upland Vegetation*. R. L. Jacobson, Minnesota Board of Soil & Water Resources and Minnesota Department of Transportation. (2006 and subsequent updates) may be used. Seed mixtures developed by the Board of Soil and Water Resources or the Minnesota Department of Transportation and approved by the City shall be used.
6. Any soil or dirt storage piles containing more than ten cubic yards of material, the down slope toe of the pile shall not be located within 25 feet of a roadway or drainage channel. If remaining for more than seven days, storage piles shall be stabilized by placing mulching, vegetative cover, tarps, or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing rock logs, fiber logs, or silt fence barriers, or other equivalent sediment barriers around the pile.
7. In-street utility repair or construction soil or dirt storage piles located within 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the storm drain inlets must be protected with rock logs, fiber logs, or other appropriate filtering barriers.

8. All erosion control measures shall be inspected by the operator once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours. Site inspections, records of rainfall events, and BMP maintenance shall comply with requirements of the NPDES Construction General Permit Part IV.E.

I. Stormwater Management Criteria for Permanent Facilities

1. The applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to manage increased runoff so that the two-year, ten-year, and 100-year critical storm peak discharge rates existing before the proposed development shall not be increased, and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity.
2. The City may require, at its discretion, an applicant to make an in-kind or monetary contribution to the development and maintenance of publicly-owned stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
3. The applicant shall give consideration to reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.
4. The following stormwater management practices shall be used in developing a stormwater management plan, in the following descending order of preference:
  - a. Natural infiltration of precipitation on-site;
  - b. Flow attenuation by use of open vegetated swales and natural depressions;
  - c. Stormwater detention facilities.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified in Section 68.08 I.1. Justification shall be provided by the applicant for the method selected.

J. Design Standards – Stormwater Detention Facilities.

Permanent stormwater detention facilities shall be designed according to the most current technology as reflected in the MPCA publication "Minnesota

Stormwater Manual" (2005), as supplemented and amended from time to time and shall conform to, at a minimum, the following design factors:

1. A permanent pond volume, when present, equal to 1800 cubic feet per acre of area draining to the pond;
2. A permanent pool depth, when present, of three feet minimum to ten feet maximum;
3. A recommended permanent pool length – to – width ratio of 1.5:1 or greater;
4. A minimum protective shelf extending ten feet into the permanent pool with a slope of 10:1, beyond which slopes should not exceed 3:1, and above which slopes should not exceed 4:1;
5. A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of 25 feet;
6. All stormwater detention facilities shall have a skimming device to keep oil, grease, and other floatable material from moving downstream during a 2 year storm;
7. Stormwater detention facilities for new development must be sufficient to limit peak flows to those that existed before the development for the 2, 10 and 100-year storm events. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the stormwater management plan;
8. All stormwater detention facilities must have a forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin;
9. Ponds shall have a 20-foot access easement, if not located along a roadway;
10. Buildings shall have a minimum setback of 30 feet from the Normal Water Level of the pond;
11. Buildings shall have a minimum floor elevation two (2) feet above the pond High Water Level;
12. Ponds shall incorporate multi-staged outlets as necessary;
13. The Normal Water Level, the 2-year and 10-year High Water Level and the 100-year High Water Level for all ponds must be clearly indicated on all plans;
14. The vegetation in the 10:1 bench area of proposed ponds shall be consistent with the surrounding native vegetation and shall be approved by the City;

15. All disturbed areas shall be seeded with an approved seed mix that contains appropriate native grasses, forbs and legumes.

K. Requirements For Discharges To Special Waters

1. Additional BMPs together with enhanced runoff controls, are required for discharges to the following special waters. The BMPs identified for each special water are required for those areas of the project draining to a discharge point on the project that is within 2,000 feet of a special water and flows to that special water.
2. Discharges directly to or to tributaries directly to Minnesota Department of Natural Resources designated Trout Streams must incorporate all of the BMPs outlined in this section. This pertains to discharges directly to or upstream of such waters unless diversion is not practical and/or the soil is not suitable for storm water infiltration techniques.
3. Discharges directly to or to tributaries directly to Minnesota Pollution Control Agency designated Outstanding Resource Value Waters must incorporate the BMPs outlined in paragraph 9 below. This pertains to discharges directly to or upstream of such waters unless diversion is not practical and/or the soil is not suitable for storm water infiltration techniques.
4. Where the proximity to bedrock precludes the installation of any of the permanent storm water management practices outlined here, other treatment such as grassed swales, smaller ponds, or grit chambers are required prior to discharge to surface waters.
5. For work on road projects where the lack of right of way precludes the installation of any of the permanent storm water management practices outlined here, other treatment such as grassed swales, smaller ponds, or grit chambers are required prior to discharge to surface waters.
6. During construction:
  - a. All exposed soil areas with a slope of 3:1 or steeper, that have a continuous positive slope to a special water must have temporary erosion protection or permanent cover within 3 days after the area is no longer actively being worked. All other slopes that have a continuous positive slope to a special water must have temporary erosion protection or permanent cover within 7 days after the area is no longer actively being worked.
  - b. Temporary sediment basin must be used for common drainage locations that serve an area with five (5) or more acres disturbed at one time.
7. Post construction: The water quality volume that must be treated by the project's permanent storm water management system shall be one (1) inch of runoff from the new impervious surfaces created by the project.

8. Buffer zone. An undisturbed buffer zone of not less than 100 linear feet from the special water (not including intermittent tributaries) shall be maintained at all times. Exceptions from this requirement for areas, such as water crossings or limited water access, are allowed if the applicant fully documents in the SWPPP the circumstances and reasons that the buffer encroachment is necessary. All potential water quality, scenic and other environmental impacts of these exceptions must be minimized and documented in the SWPPP for the project.
9. Enhanced runoff controls. The permanent storm water management system must be designed such that the pre and post project runoff rate and volume from the 1-year, and 2-year, 24-hour precipitation events remains the same.
10. Temperature Controls. The permanent storm water management system must be designed such that the discharge from the project will minimize any increase in the temperature of trout stream receiving waters resulting from the 1, and 2-year 24-hour precipitation events. This includes all tributaries of designated trout streams within the section that the trout stream is located. Projects that discharge to trout streams must minimize the impact using one or more of the following measures, in order of preference:
  - a. Minimize new impervious surfaces.
  - b. Minimize the discharge from connected impervious surfaces by discharging to vegetated areas, or grass swales, and through the use of other non-structural controls.
  - c. Infiltration or evapotranspiration of runoff in excess of pre-project conditions (up to the 2-year 24-hour precipitation event).
  - d. If ponding is used, the design must include an appropriate combination of measures such as shading, filtered bottom withdrawal, vegetated swale discharges or constructed wetland treatment cells that will limit temperature increases. The pond should be designed to draw down in 24 hours or less.
  - e. Other methods that will minimize any increase in the temperature of the trout stream.

L. Wetlands.

All projects must meet the requirements of the Minnesota Wetland Conservation Act.

M. Steep Slopes.

No land disturbing activities shall be allowed on slopes of 18 per cent or more, as measured over horizontal distances of 50 feet or more, unless evidence can be

presented to the satisfaction of the City that special protective measures will result in no negative water quality impacts for a 2-year, 24-hour storm event.

1. As part of the Stormwater Management Plan the applicant shall provide to the City Engineer for review and approval:
  - a. An erosion control plan and site plan for the site prepared by a registered engineer having knowledge and experience in civil engineering and hydrology.
  - b. A revegetation plan meeting the standards set forth herein shall be prepared by a registered landscape architect or registered engineer, with sufficient experience in slope stabilization, landscaping installation, and maintenance to ensure the success of the plans they propose.
2. Approval of the erosion control plan and the revegetation plan shall be obtained from the City Engineer prior to issuance of any building permit for the site or for any land disturbing activity not requiring a building permit.
3. The City shall inspect the site during construction to ensure compliance with the approved plan.

N. Notification.

The permittee shall notify the City prior to start of land disturbing activity and when final stabilization of the site has been completed.

O. Inspection and Maintenance.

All stormwater management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The City Engineer, or designated representative, may inspect all stormwater management facilities during and after construction as deemed necessary by the City. The inspection records will be kept on file at the Engineering Department. 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.

P. Models/methodologies/computations.

Hydrologic models and design methodologies used for the determination of runoff and analysis of stormwater management structures shall be approved by the City Engineer. Plans, specifications and computations for stormwater management facilities submitted for review shall be signed by a registered professional engineer. Plans, specifications and computations for stormwater management facilities submitted for review shall be signed by a registered

professional engineer. All computations shall be submitted for review, unless otherwise approved by the City Engineer.

1. All pond design and hydrologic calculations must be submitted showing the methods and data used to determine runoff volume, runoff rates, and routing of stormwater flows through ponds and/or channels. For example, when using SCS methods, data and calculations would include curve numbers and times of concentration and how they were determined.
2. All pond calculations submitted shall describe existing soil on the site.
3. All drainage maps submitted for the existing and proposed conditions should show 2-foot contours, with drainage areas clearly labeled. Drainage area maps should be scaled no less than 1:50.

Q. Easements.

If a stormwater management plan involves diversion of some or all runoff off 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.

R. Landscape Preservation Standards.

1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. A buffer composed of native vegetation shall be maintained adjacent to lakes, streams, and wetlands.

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Ord. No. 3738 07/02/07

Ord. No. 4019 12/21/2015

## 68.09 Enforcement

A. Notification of Failure of the Erosion and Sediment Control Plan or Stormwater Management Plan.

1. Notification by City. The City shall notify the permit holder of the failure of the erosion and sediment control plan or stormwater management plan measures. The initial contact will be to the parties listed on the application and/or the stormwater management plan. Forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion and sediment control measures or stormwater management plan, the City, at its discretion, may begin corrective work.
2. 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 forty-eight (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 (7) calendar days go by without corrective action being taken. If in the opinion of the

City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required.

3. Erosion/Sediment Deposition into Streets, Wetlands, or Water Bodies. The applicant shall immediately cleanup and repair any eroded soils (including tracked soils from construction activities) or sediment that has entered, or appears likely to enter, streets, wetlands, or other water bodies. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup and repair operations.
4. Failure to Do Corrective Work. When an applicant fails to conform to any provision of this chapter within the time stipulated, the City may take the following actions.
  - a. Issue a notice of administrative offense and subject the applicant to the administrative penalties set forth in the schedule of offenses and penalties in Chapter 22.33 of the Winona City Code.
  - b. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
  - c. 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.
  - d. Direct the correction of the deficiency by City staff 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 the erosion and sediment controls and stormwater management facilities.
  - e. All costs incurred by the City in correcting erosion and sediment controls and stormwater management deficiencies shall be reimbursed by the applicant. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities.
  - f. If there is an insufficient financial amount in the applicant's financial securities to cover the costs incurred by the City, then the City may assess the remaining amount against the property.

B. Notification of Need for Maintenance, Repair, or Replacement of Existing Private Stormwater Facilities of a Non-Critical Nature.

If, upon inspection, the City finds that any private stormwater management facilities require maintenance, repair, or replacement, but such deficiencies do not create a critical or imminent threat to adjacent properties, the environment, or other stormwater facilities; the party or parties responsible for the continued operation of the facilities shall be given written notice of the findings, the actions required to correct the situation, and a timetable by which such activities must be

completed. Such parties shall have 15 days to reply to the City indicating their response to the notice.

If the responsible party or parties do not complete the necessary activities stipulated by the City Public Works Department, the City, after notice, may order that such activities be completed by the City or its designated contractor and that all costs associated with such activities be certified by the City Engineer to the Council. The amount so charged shall be a lien upon the properties benefiting from and utilizing the stormwater facilities maintained, repaired or replaced and shall be added to, become, and form part of the taxes next to be assessed and levied upon such properties. The Council shall, by appropriate resolution, assess the above-mentioned costs against said properties, and certify the same to the County. The same shall be collected and enforced in the same manner as the collection of real estate taxes.

C. Operator Responsibility.

The operator (usually the general contractor) is jointly responsible with the owner for compliance with all portions of the permit and stormwater management plan prior to final completion of construction activities.

D. Penalties.

Any violation of the terms of this chapter is a misdemeanor and each day the violation continues is a separate misdemeanor. Any cost incurred by the City in compelling conformance with the provisions of this chapter shall be paid by the property owner and the City may assess such costs against the property to be included in taxes.

#### **68.10 Right of Entry and Inspection**

The applicant shall allow the City and their authorized representatives, upon presentation of credentials to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
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 this permitted site.
4. Inspect the stormwater management measures.
5. Sample and monitor any items or activities pertaining to stormwater management measures.

#### **68.11 ABROGATION AND GREATER RESTRICTIONS**

This chapter is 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.

All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

**68.12 Severability**

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 shall not be affected thereby.

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