

ARTICLE IX. - STORMWATER MANAGEMENT

Sec. 25-1000. - Statutory authorization, purpose and scope.

(a) *Statutory authorization.* This article is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 103F.401, 103F.441 and 462, and Minnesota Rules Chapters 7050, 7090 and 8410. This article 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 CFR pt. 122.26(b)(14)(x) and (b)(15), respectively.

(b) *Purpose.* The purpose of this article is to set forth the minimum requirements for stormwater management that will diminish the threats to public health, safety, public and private property and the natural resources of the community from uncontrolled stormwater runoff and construction site erosion by establishing performance standards that:

- (1) Protect life and property from dangers associated with flooding;
- (2) Protect public and private property from damage resulting from runoff or erosion protecting life and property from dangers associated with flooding;
- (3) Ensure the annual runoff rates and volumes from post development site conditions mimic the annual runoff rates and volumes from predevelopment site conditions;
- (4) Provide site design that minimizes the generation of stormwater and maximizes pervious areas for stormwater treatment;
- (5) Promote regional stormwater management by watershed;
- (6) Provide a consistent set of performance standards that apply to all developments;
- (7) Protect water quality from nutrients, pathogens, toxins, debris, and thermal stress;
- (8) Promote infiltration and groundwater recharge;
- (9) Provide a vegetated corridor (buffer) to protect water resources from development;
- (10) Protect functional values of natural water courses and wetlands;
- (11) Provide plant and animal habitat and support riparian ecosystems;
- (12) Provide procedures to achieve a targeted eighty (80) percent reduction in sediment load rates to community waters as compared to no controls for all new development; a forty (40) percent reduction in sediment load rates as compared to no controls for all redevelopment and street reconstruction; and a twenty (20) percent reduction in sediment load rates as compared to no controls for existing developments.

(c) *Scope.* No person shall develop any land for residential, commercial, industrial, or institutional uses without having provided stormwater management measures that control or manage runoff from such developments during construction and after construction, in compliance with the requirements of this article.

(Ord. No. 2010-06, 7-26-10)

Sec. 25-1001. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage and to give this article its most reasonable application. For the purpose of this article, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

Best management practices (BMPs) means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water.

Common plan of development or sale means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

Construction activity. For this article, construction activity 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.

Dewatering means the removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. It may require Minnesota Department of Natural Resources permits to be appropriated and if contaminated may require other MPCA permits to be discharged.

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

Erosion prevention means measures employed to prevent erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

Final stabilization means that either:

- (a) All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy (70) percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed; or
- (b) For individual lots in residential construction by either: (a) The homebuilder completing final stabilization as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization; or
- (c) For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land) final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Disturbed areas that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters and drainage systems, and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria in subsection (a) or (b) above.

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General contractor means the party who signs the construction contract with the owner to construct the project described in the final plans and specifications. Where the construction project involves more than one contractor, the general contractor will be the party responsible for managing the project on behalf of the owner. In some cases, the owner may be the general contractor. In these cases, the owner may contract an individual as the operator who would become the co-permittee.

Homeowner factsheet means a fact sheet developed by the MPCA to be given to homeowners at the time of sale by a builder to inform the homeowner of the need for, and benefits of, final stabilization.

Impervious surface means 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 prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, gravel roads, or parking lots.

National Pollutant Discharge Elimination System (NPDES) means 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.

Normal wetted perimeter means 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 at least once every year.

Notice of termination means notice to terminate coverage under this article after construction is complete, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established, in accordance with all applicable conditions of this article. Notice of Termination forms are available from the MPCA.

Operator means 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 SWPPP. The person must be knowledgeable in those areas of the permit for which the operator is responsible, and must perform those responsibilities in a workmanlike manner.

Owner means the person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.

Permanent cover means final stabilization. Examples include grass, gravel, asphalt, and concrete.

Permittee means a person or persons, firm, or governmental agency or other institution that signs the application submitted to the MPCA and is responsible for compliance with the terms and conditions of this permit.

Saturated soil means the highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.

Sediment control means methods employed to prevent sediment from leaving the site. Examples of sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Small construction activity means activities for example that include clearing, grading and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five acres. Small construction activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than

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five (5) acres.

Stabilized means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

Standard plates means general drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.

Stormwater includes precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage.

Stormwater pollution prevention plan means a plan for stormwater discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

Surface water or *waters* means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.

Temporary erosion protection means methods employed to prevent erosion. Examples of temporary erosion protection include straw, wood fiber blanket, wood chips, and erosion netting.

Underground waters means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term ground water shall be synonymous with underground water.

Waters of the state means 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.

Water quality volume means one-half inch of runoff from the new impervious surfaces created by a project and is the volume of water to be treated in the permanent stormwater management system, as required herein or by any applicable MPCA permit.

Wetland or *wetlands* includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:

- (a) A predominance of hydric soils;
- (b) Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
- (c) Under normal circumstances support a prevalence of such vegetation.

(Ord. No. 2010-06, 7-26-10)

Sec. 25-1002. - Stormwater management.

The following standards shall apply to all developments within the City of Fairmont:

(a) *Stormwater management plan.* Every applicant for a building permit that involves disturbing one-half acre of land or more, must submit a stormwater management plan to the community development department. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of this plan. All plans shall be consistent with National Pollution Discharge Elimination Permit (NPDES) requirements.

(1) *General policy on stormwater runoff rates.* Site plans for new development of one half acre or larger will be reviewed for stormwater quantity control and stormwater quality management. The general policy on stormwater runoff rates is to reduce the impacts of development by maintaining predevelopment hydrological conditions. When a site is designed for new or renewed development, the hydrologic regime can be altered in the following ways:

- a. Increased runoff volume.
- b. Increased imperviousness.
- c. Increased flow frequency, duration, and peak runoff rate.
- d. Reduce infiltration (groundwater recharge).
- e. Modification of the flow pattern.
- f. Faster time to peak, due to shorter time of concentration through storm sewers.
- g. Loss of storage.
- h. Accelerated channel erosion.

(b) *Stormwater management plan requirements.* The minimum requirements of the stormwater management plan shall be consistent with the most recent version of the Minnesota Pollution Control Agency's NPDES Construction Permit Requirements:

- (1) Identification and description.
 - a. Project name;
 - b. Project type (residential, commercial, industrial, road construction, or other);
 - c. Project location;
 - d. County parcel identification number (legal description);
 - e. Names and addresses of the owner of record, developer, land surveyor, engineer, designer of the plat, and any agents, contractors, and subcontractors who will be responsible for project implementation;
 - f. Identification of the entity responsible for long term maintenance of the project;
 - g. Phasing of construction with estimated start date, time frames and schedules for each

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construction phase, and completion date;

h. Copies of permits or permit applications required by any other governmental entity or agencies including mitigation measures required as a result of any review for the project (e.g. wetland mitigation, EAW, EIS, archaeology survey, etc.).

(2) *Proposed Conditions.* A complete site plan and specifications, signed by the person who designed the plan, as required by law, shall be drawn to an easily legible scale, shall be clearly labeled with a north arrow and a date of preparation, and shall include, at a minimum, the following information:

- a. Project map—An 8.5 by 11-inch United States Geological Survey (USGS) 7.5-minute quad or equivalent map indicating site boundaries, proposed elevations, and areas not to be disturbed;
- b. Property lines and lot dimensions of plat.
- c. The dimensions and setbacks of all buildings and easements.
- d. The location and area of all proposed impervious surfaces including public and private roads, interior roads, driveways, parking lots, pedestrian ways, and rooftops. Show all types of paving and surfacing materials.
- e. Location, size, and approximate grade of proposed public sewer and water mains.
- f. Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project.
- g. Identify all natural and artificial water features on site including, but not limited to lakes, ponds, streams (including intermittent streams), and ditches. Show ordinary high water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense.
- h. Hydrologic calculations for volume runoff, velocities, and peak flow rates by watershed, for the 2-year, 10-year, and 100-year 24-hour storm events. These shall include:
 - Post construction peak flow rates with no detention.
 - Post construction peak flow rates with detention.
 - Assumed runoff curve numbers.
 - Time of concentration used in calculations.
 - If a flood insurance study has been done by the National Flood Insurance Program, the 100-year flood elevation with and without the floodway.
- i. Locations of all stormwater management practices, infiltration areas, and areas not to be disturbed during construction.
- j. Steep slopes and bluffs requirements must be consistent with Fairmont City Code, chapter 26

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k. Location of temporary sedimentation basins. If more than ten (10) acres are disturbed and drained to a single point of discharge, temporary sediment basins must be installed, however, if the site has sensitive features as determined by the community development department or the potential of off-site impacts, then temporary sediment basins must be installed to protect the resource. This is determined on a site by site basis. When site restrictions do not allow for a temporary sediment basin, equivalent measures such as smaller basins, check dams, and vegetated buffer strips can be included.

l. Location, and engineered designs, for structural stormwater management practices including stormwater treatment devices that remove oil and floatable material (e.g., basin outlets with submerged entrances).

m. Normal water level, high water level, and emergency overflow elevations for the site.

n. Floodplain, if available.

(3) All proposed stormwater practices, hydrologic models, and design methodologies shall be reviewed by the community development department and certified for compliance by the city engineer.

(c) *Stormwater management performance standards and design criteria.* The applicant shall consider reducing the need for stormwater management structural controls by incorporating the use of natural topography and land cover such as 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 receiving water body. The development shall minimize impact to significant natural features.

(1) Stormwater management in shoreland development shall comply with the standards set forth in Fairmont City Code, sections 26-501 through 26-527

(2) If stormwater is conveyed to an existing approved, on-site or regional stormwater ponding/retention facility, documentation must be provided to show that the existing facility was designed to accommodate the changes in stormwater rate and volume due to the project and that use of the facility for the project will not impinge on the ultimate capacity of the facility or otherwise adversely affect the ability of the facility to achieve its original planned purpose. City may charge a fee for use of any existing facility that is commensurate with the replacement cost for any reduction in ultimate stormwater volume, rate capacity and sediment storage. In designated shoreland areas the development shall meet the impervious surface requirements of the shoreland ordinance regardless of conveyance systems.

(3) Proposed design, suggested location and phased implementation of effective, practicable stormwater management measures for plans shall be designed, engineered and implemented to achieve the following results:

a. *Volume control.* Calculations shall use the appropriate hydrologic soil group classification and saturated infiltration rates unless specific rates are measured by a registered soil scientist.

b. *Sediment control.*

1. For new construction, an erosion and sediment control plan implementing BMP will be required that meets the performance and design standards of this article and shall be consistent with National Pollution Discharge Elimination Permit (NPDES) requirements.

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2. For redevelopment and street reconstruction resulting in exposed surface parking lots and associated traffic areas, an erosion and sediment control plan implementing BMP will be required that meets the performance and design standards of this article and shall be consistent with National Pollution Discharge Elimination Permit (NPDES) requirements. Under no circumstances shall the site's existing sediment control level or trapping efficiency be reduced as a result of the redevelopment.
- c. *Oil and grease control.* For all stormwater plans for commercial or industrial developments and all other uses where the potential for pollution by oil or grease, or both, exists, the first 0.5 inches of runoff will be treated using the best oil and grease removal technology available. This requirement may be waived by the plan reviewer only when the applicant can demonstrate that installation of such practices is not necessary.
- d. *Runoff rate control hydrologic calculations.* All runoff calculations shall be according to the methodology described in the Natural Resources Conservation Service's Technical Release 55, "Urban Hydrology for Small Watersheds" (commonly known as TR-55), or other methodology approved by the city engineer. For agricultural land subject to this section, the maximum runoff curve number (RCN) used in such calculations for pre-existing undeveloped conditions shall be based on average cultivated row crop conditions and shall not exceed 67 for Hydrologic Soil Group (HSG) A, 76 for hydrologic soil group B, 83 for HSG C, and 86 for HSG D. The TR-55-specified curve numbers for other land uses shall be used. Post development HSG for disturbed sites will be lowered one class for hydrologic calculations to reflect reduced soil permeability impacts unless city approved practices have been implemented to restore soil structure to pre-developed conditions, in which case no HSG class modification is required.
- e. *Runoff rate control - design standards.* All stormwater facilities shall be designed, installed and maintained to effectively accomplish the following:
1. Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm event.
 2. Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm event. At a minimum the storm sewer conveyance system shall be designed for this storm event. Low areas must have an acceptable overland drainage route with the proper transfer capacity when the storm event is exceeded.
 3. Maintain predevelopment peak runoff rates for the 100-year, 24-hour storm event. Provide outlet to safely pass this event.
- f. *Outlets.* Discharges from new construction sites must have a stable outlet capable of carrying designed flow at a nonerosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or water body.
- g. *Minimize impervious surface area and maximize infiltration.* The project shall use existing natural drainage ways and vegetated soil surfaces to convey, store, filter, and retain stormwater runoff before discharge into public waters or a stormwater conveyance system. Unless specifically modified for long term infiltration performance, including long term maintenance assurances, permanent pool areas of wet ponds will not be accepted as an infiltration practice except as specifically required by the city as part of development planning requirements and conformance with the comprehensive plan. The applicant shall limit the impervious surface of the developed site or subdivision by incorporating the following design considerations,

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consistent with zoning, subdivision, and PUD requirements (See City Code):

1. 32"—36"-wide streets.
 2. Minimum parking to meet code sections.
 3. Sidewalk locations.
 4. Maximizing open space while meeting minimum lot standards as set forth in City Code.
 5. Using landscaping and soils to treat and infiltrate stormwater runoff.
 6. Identify vegetated areas that can filter sheet flow, removing sediment and other pollutants, and increasing the time of concentration.
 7. Disconnect impervious areas by allowing runoff from small impervious areas to be directed to pervious areas where it can be infiltrated or filtered.
 8. Runoff from downspouts, driveways and other impervious areas shall be directed to pervious surfaces, where feasible.
 9. Adequate use of buffers around streams, steep slopes, and wetlands to protect from flood damage and provide additional water quality treatment.
- h. *Pond requirements.* For all projects creating more than one acre of new impervious surface, ponding shall be required. At a minimum all pond design specifications shall conform to the current requirements found in the NPDES construction permit. In addition the following are required:
1. All stormwater ponds shall be provided with a forebay area to provide for the settlement of fine sand sized particles.
 2. Pond side slopes shall not exceed 4 feet horizontal to 1 foot vertical (4:1) and should provide a bench just at the normal water level with side slopes no less than 10 feet horizontal to 1 foot vertical (10:1) for safety considerations.
 3. All public and private owned stormwater management facilities shall provide an unobstructed access path (minimum of twenty (20) feet) capable of supporting light truck traffic during normal weather for the purpose of conducting inspections of the facility and maintenance thereof.
 4. To provide proper protection for adjacent and downstream property, the design storm interval for the ponding area is a 100-year, 24-hour storm with correctly sized discharge and overflow conveyances for 100-year, 24-hour storm flows consistent with standards used by cities, townships, counties, state, and federal agencies in planning for the flood protection of homes and public facilities. Pond discharge must be planned to identify, minimize and mitigate impacts to downstream and adjacent properties from pond overflows.
- i. *Minimum protection for lakes and wetlands.* Rivers, streams, lakes, and wetlands shall be protected from runoff generated during construction and after completion of the development.

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Runoff shall not be discharged directly into wetlands without appropriate quality and quantity runoff control, depending on the individual wetland's vegetation. Wetlands may not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas of at least equal public value and consistent with the Minnesota Wetland Conservation Act of 1991.

j. *Buffer protection for rivers, streams, lakes, and wetlands.* Fairmont City Code, sections 26-516 and 26-517 and required building setbacks in the underlying zoning district shall provide the minimum buffer protection required. The community development department and the city engineer may require additional setbacks as dictated make up of the sites. All buffering areas must be maintained to prevent unreasonable or excessive erosion and sedimentation

k. *Regional ponding.* Is encouraged where practical. The city may allow off-site stormwater management and associated fees, provided that provisions are made to manage stormwater by an off-site facility, and provided that all of the following conditions for the off-site facility are met:

1. The facility is designed and adequately sized to provide a level of stormwater control that at least meets the ordinance standards.
2. The city is satisfied that the facility has a legally obligated entity responsible for its long-term operation and maintenance.

(d) *Stormwater and urban runoff pollution control.*

(1) *Illegal disposal.* No person shall dispose of any refuse, rubbish, garbage, grass, leaves, dirt, or other landscape debris or any other discarded or abandoned objects, articles, or accumulations, in violation of Fairmont City Code or Minnesota state laws, so that the same might be or become a pollutant.

(2) *Illicit discharges and connections.*

a. No person shall cause any discharge to enter the municipal stormwater system unless such discharge: (1) consists of nonstormwater that is authorized by an NPDES point source permit obtained from the MPCA; or (2) is associated with fire fighting activities; or (3) is otherwise in compliance with City Code.

b. No person shall use any illicit connection to intentionally convey nonstormwater to a community stormwater system.

(3) *Good housekeeping provisions.* Any owner or occupant of property within the city shall comply with the following good housekeeping requirements:

a. No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or stormwater drain system may occur. This section shall apply to both actual and potential discharges.

1. For pools, water should be allowed to sit seven days to allow for chlorine to evaporate before discharge. If fungicides have been used, water must be tested and approved for discharge to the wastewater treatment plant.

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

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violation of any other provisions in City Code.

3. Storage of materials, machinery, and equipment.

i. 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.

ii. Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain leaks, spills, or discharges.

4. Removal of debris and residue. Debris and residue shall be removed without allowing any leaks, spills or discharges that may result in prohibited runoff into the streets or stormwater drainage system.

(e) *Review.* The community development department shall review the stormwater management plan. This review shall be completed within twenty-one (21) days of receiving the plan from the developer.

(1) *Permit required.* A permit will be issued upon compliance and valid for a specified period of time.

(2) *Denial.* If the community development department determines that the stormwater management plan does not meet the requirements of this article, a permit shall not be issued for the land disturbance activity. A revised plan must be resubmitted for approval before the land disturbance activity begins. All land use and building permits shall be suspended until the owner, developer or general contractor has an approved stormwater management plan.

(f) *Modification of plan.* An approved stormwater management plan may be modified on submission of an application for modification to the community development department and after approval of the modifications. In reviewing such an application, the community development department may require additional reports and data.

(g) *Variance requests.* The community development department, after review by the city engineer, may grant a variance from the strict interpretation of this chapter on a case-by-case basis. The content of a variance shall be specific, and shall not affect other approved provisions of a SWPPP.

(1) The variance request shall be in writing and include the reason for requesting the variance.

(2) Economic hardship is not sufficient reason for granting a variance.

(3) The community development department shall respond to the variance request in writing and include the justification for granting or denying the request.

(h) *Financial securities.* The applicant shall provide security for the performance of the work encompassed by the approved stormwater management plan in a form acceptable to the city.

(i) *Inspections and enforcement.* Inspections will be performed during construction to ensure that stormwater management plan measures are properly installed and maintained.

(1) *Construction stop order.* The community development department may issue construction stop orders until stormwater management measures meet specifications.

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- (2) *Perimeter breach.* If stormwater management measures malfunction and breach the perimeter of the site, enter streets, other public areas, or water bodies, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-way from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining permission. If in the discretion of the community development department, the applicant does not repair the damage caused by the stormwater runoff the city may do the remedial work required and charge the cost to the applicant.
- (3) *Actions to ensure compliance.* The city may take the following action in the event of a failure by applicant to meet the terms of this article:
- a. Withhold inspections or issuance of certificates or approvals.
 - b. Revoke any permit issued by the city to the applicant.
 - c. Conduct remedial or corrective action on the development site or adjacent site affected by the failure.
 - d. Charge applicant for all costs associated with correcting the failure or remediating the damage from the failure.
 - e. Bring other actions against the applicant to recover costs of remediation or meeting the terms of this article.
 - f. Any person, firm or corporation failing to comply with or violating any of the provisions of this article, shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this article is committed, continued or permitted, shall constitute a separate offense. All land use and building permits held by the applicant will be suspended until the applicant has corrected any and all violations.
- (j) *Maintenance of stormwater facilities.* The city requires that stormwater facilities be maintained.
- (1) *Private stormwater facilities.* All private stormwater facilities shall be maintained in proper condition consistent with the performance standards for which they were originally designed.
- (2) *Removal of settled materials.* All settled materials from ponds, sumps, grit chambers, and other devices, including settled solids, shall be removed and properly disposed of on a five-year interval or longer if the facility is designed and certified to be have the additional capacity for a longer period in between removal of settled materials. One- to five-year waivers from this requirement may be granted by the city when the owner presents evidence that the facility has additional capacity to remove settled solids in accordance with the original design capacity.
- (3) *Maintenance plan required.* No private stormwater facilities may be approved unless a maintenance plan is provided that defines who will conduct the maintenance, the type of maintenance and the maintenance intervals. The maintenance plan shall define the parties responsible for the maintenance and that the responsibility runs with the ownership of the property.
- (4) *Inspection.* The city shall inspect all stormwater facilities during construction and as a result of receiving a complaint. In the event that an inspection reveals that the responsible parties failed to maintain the facility in compliance with this article, after reasonable notice from the city of this failure, the city may make any necessary repairs or maintenance and collect the costs of such repairs or maintenance from the responsible parties by assessment or other legal means. In the event of an

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emergency repair, necessary to prevent imminent injury or damage to other persons or property, the city will attempt to notify the responsible parties to make the repair. If the responsible parties do not respond or are unable to respond in a timely manner the city shall at its discretion and without incurring liability to the responsible parties, complete the emergency repairs and collect the costs from the responsible parties by assessment or other legal means.

(5) *Maintenance of publicly owned stormwater facilities.* The city shall regularly inspect and based on annual review of the inspection reports, periodically perform any recommended maintenance of the in place city-owned and maintained stormwater facilities. Further, the city shall notify the owners of other publicly owned stormwater facilities (for example, schools, county or state) if maintenance is needed according to periodic site inspections or maintenance plans on file.

(k) *Inventory of stormwater facilities.* Upon adoption of this article, the city shall inventory and maintain a database of all private and public stormwater facilities within the city requiring maintenance to assure compliance with this article. The city shall notify owners of public and private stormwater facilities of the need for conducting maintenance at least every five (5) years, starting in 2012.

(l) *Severability.* The provisions of this article are severable, and if any provision or application of any provision of this article to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this article must not be affected thereby.

(Ord. No. 2010-06, 7-26-10)