## TITLE XV: LAND USAGE

# CHAPTER 152: STORM WATER MANAGEMENT

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#### § 152.01 STATUTORY AUTHORIZATION.

This chapter is adopted pursuant to M.S. § 462.351, as it may be amended from time to time. (Prior Code, § 15.01) (Ord. 2010-11, 3rd Series, passed 6-21-2010)

## § 152.02 FINDINGS.

The City of Hastings hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion, and areas containing restrictive soils adversely affects the public health, safety, and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources, and hindering the ability of the City of Hastings to provide adequate water, sewage, flood control, and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in the areas and in areas which may be affected by unplanned land usage. (Prior Code, § 15.02) (Ord. 2010-11, 3rd Series, passed 6-21-2010)

## § 152.03 PURPOSE.

The purpose of this chapter is to promote, preserve, and enhance the natural resources within the City of Hastings and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for the areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas. (Prior Code, § 15.03) (Ord. 2010-11, 3rd Series, passed 6-21-2010)

#### § 152.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context dearly indicates or requires a different meaning.

**APPLICANT.** Any person who wishes to obtain a building permit, zoning or subdivision approval.

**BANKFULL CHANNEL WIDTH.** The channel width of a stream, creek, or river at bankfull stage.

**BANKFULL STAGE.** The water level in a stream channel, creek, or river where the flow just begins to leave the main channel and enter the active floodplain.

**COMMON PLAN OF DEVELOPMENT.** 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.

*CONTROL MEASURE.* A practice or combination of practices to control erosion and attendant pollution.

**DEAD STORAGE.** The volume of space located below the overflow point of a basin, pond or landlocked basin.

**DETENTION FACILITY.** A permanent natural or human-made structure, including wetlands, for the temporary storage of runoff which has a storm water outlet and may have a permanent pool of water.

**DUAL PURPOSE POND.** A detention facility without a permanent pool that functions as both a storm water ponding basin and as a sedimentation basin. Sediment removal is accomplished through the use of filter media surrounding a slotted outlet pipe, with an overflow outlet set at an elevation that provides for minimum required run off volume and sediment storage.

**FLOOD FRINGE.** The portion of the flood plain outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Study for the City of Hastings.

**FLOOD PLAIN.** The beds proper and the areas adjoining a wetland, lake, or watercourse, which have been or hereafter may be covered by the regional flood (The critical 100-year storm).

**FLOODWAY.** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry or store the regional flood discharge.

*HYDRIC SOILS.* Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**HYDROPHYTIC VEGETATION.** Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

*LAND DISTURBING OR DEVELOPMENT ACTIVITIES.* Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

MS4 – Municipal Separate Storm Sewer System (MS4) (Ord. 2011-20, 3<sup>rd</sup> Series Passed 9-6-11)

**MEANDER.** A sinuous bend of a river, stream, or creek.

**MEANDER BELT.** The area between lines drawn tangential to the extreme limits of fully developed meanders.

*MINIMUM IMPACT ALIGNMENT.* Is the alignment for a proposed road, street, utility, path or access that creates the smallest area of impact to a buffer, waterway, or floodplain. For activities that cross a buffer, waterway, or floodplain the minimum impact alignment is one that crosses perpendicular, or near perpendicular, to the longitudinal orientation of the buffer, waterway, or floodplain as reasonable to serve to intended purpose of the improvement.

**ORDINARY HIGH WATER (OHW) LEVEL.** The boundary of water basins, watercourses, public waters, and public waters wetlands and:

(1) 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 predominately aquatic to predominately terrestrial;

(2) For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and,

(3) For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**PERSON.** Any individual, firm, corporation, partnership, franchisee, association, or governmental entity.

**PUBLIC WATERS.** Waters of the state as defined in M.S. § 103G.005, Subdivision 15, as amended.

**REDEVELOPMENT.** The rebuilding, repair, or alteration of a structure, land surface, road or street, or facility that creates less than 1 acre of new impervious surface, and disturbs, replaces, or alters more than 1 acre of existing impervious surface. Note: for the purposes of these Rules, if an activity creates more than 1 acre of new or additional impervious surface, the activity is considered new development and exceptions in these Rules for redevelopment do not apply to the increased (new) impervious surface exceeding 1 acre.

**REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the critical 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** in the Flood Insurance Study.

**RETENTION FACILITY.** A permanent natural or man made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

SEDIMENT. Solid matter carried by water, sewage, or other liquids.

*STRUCTURE.* Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, mobile or manufactured homes, and other similar items.

**WETLANDS.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water no deeper than 6 feet. For purposes of this definition, wetlands must have the following 3 attributes:

(1) Have a predominance of hydric soils;

(2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) Under normal circumstances support a prevalence of the vegetation. (Prior Code, § 15,04) (Ord. 2010-11, 3rd Series, passed 6-21-2010) (Ord. 2016-01, 3<sup>rd</sup> Series, passed 1-19-16)

## § 152.05 SCOPE AND EFFECT.

(A) *Applicability*. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a storm water management plan to the Public Works Department. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirements has been obtained in strict conformance with the provisions of this chapter. The provisions of §152.09 apply to all land, public or private, located within the City of Hastings.

(B) *Exemptions*. The provisions of this chapter do not apply to:

(1) Any part of a subdivision if a plat for the subdivision has been approved by the City Council on or before the effective date of this chapter;

(2) Any land disturbing activity for which plans have been approved by the watershed management organization within 6 months prior to 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) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles gardening, tree planting, deck construction, and other types of construction disturbing 1/3 acre or less; or

(5) Emergency work to protect life, limb, or property.

(C) *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 the requirement will not adversely affect the standards and requirements set forth in §152.06. The City Council may require as a condition of the waiver, the dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet the standards and requirements. (Prior Code, § 15.05) (Ord. 2010-11, 3rd Series, passed 6-21-2010)

## § 152.06 STORM WATER MANAGEMENT PLAN APPROVAL PROCEDURES.

#### (A) Application.

(1) A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the Public Works Department and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use

is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter. Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plans reviewed by the appropriate departments of the city.

(2) One electronic pdf drawings and other required information shall be submitted to the Public Works Department and shall be accompanied by all required fees for processing and approval as set forth in §152.07(E), and a bond when required by § 152.07(D) in the amount to be calculated in accordance with that section. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. The drawing scale may range from a maximum of 1 inch equals 20 feet to a minimum of 1 inch equals 100 feet. Electronic copies of the drawings shall also be submitted in a pdf format or other electronic format as specified by the Public Works Department.

(B) *Storm water management plan.* At a minimum, the storm water management plan shall contain the following information:

(1) *Existing site map.* A map of existing site conditions showing the site and immediately adjacent areas, including:

(a) The name and address of the applicant, the project name, the section, township and range, north direction arrow, date and scale of drawing and number of sheets;

(b) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving the information as the names and numbers of adjoining roads, utilities, subdivisions, towns and districts or other landmarks;

(c) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than 2 feet;

(d) A delineation of all streams, rivers, public waters, and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, the Dakota County Soil and Water Conservation District, Vermillion River Watershed Joint Powers Organization, and/or the United States Army Corps of Engineers;

(e) Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where storm water collects;

(f) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable including special rotations locating where erosion soils exist on the site; (g) Vegetative cover and clearly delineating any vegetation proposed for removal; and

(h) One hundred-year flood plain, flood fringes and floodways.

(2) Site construction plan. A site construction plan including:

(a) Locations dimensions including total acreage of all proposed land disturbing activities and any phasing and phasing time frame of those activities;

(b) Locations and dimensions of all temporary soil or dirt stockpiles;

(c) Locations and dimensions of all construction site erosion control measures and storm water BMP's necessary to meet the requirements of this chapter;

(d) Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this chapter (in general the erosion control measure shall be installed prior to any grading activity); and

(e) Provisions for maintenance of the construction site erosion control measures during construction.

(f) Contractor is responsible for submitting to the City an erosion control inspection form after every half inch or greater rain event and at a minimum of one time per week. A rain gage must be present on site.

(g) Erosion control and erosion control inspection priority must be given to areas susceptible to erosion due to site topography, soil characteristics, quality of receiving water, state of construction, and weather conditions.

(3) *Plan of final site conditions*. A plan of final site conditions on the same scale as the existing site map showing the site changes including:

(a) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

(b) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size, and description of all proposed landscape materials which will be added to the site as part of the development;

(c) A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;

(d) The proposed size, alignment, and intended use of any structures to be erected on the

site;

(e) A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

(f) Any other information pertinent to the particular project which in the opinion of the applicant and/or the city is necessary for the review of the project. (Prior Code, § 15.06) (Ord. 2010-11, 3rd Series, passed 6-21-2010) (Ord. 2015-06, 3<sup>rd</sup> Series, passed 4-06-15\_

## § 152.07 PLAN REVIEW PROCEDURE.

(A) *Process.* Applicant prepared storm water management plans meeting the requirements of \$152.06 shall be submitted to the Public Works Department for review in accordance with the standards of \$152.08. City Council action on the storm management plan must be accomplished within 120 days following the date the application for approval is filed with the Public Works Department.

(B) *Duration*. Approval of a plan submitted under the provisions of this chapter shall expire 1 year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the Public Works Department for an extension of time to commence construction setting forth the reasons for the requested extension, the Public Works Department may grant an extension of not greater than 1 single year. Receipt of any request for extension shall be acknowledged by the Public Works Department within 15 days. The Public Works Department shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

(C) *Conditions*. A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this chapter are met. The conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require placement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance to the City of Hastings or other public entity of certain lands or interests herein.

(D) *Performance bond.* Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct the required physical improvements, to dedicate property or easements, or to comply with the conditions as may have been agreed to. The agreement shall be accompanied by a performance bond to cover the amount of the established cost of complying with the agreement. The agreement and performance bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with division (B) above. The performance bond amount shall be determined by the Director of Public Works, and shall be set at 125% of the estimated cost of the required improvement. The adequacy, conditions and acceptability of any agreement and performance bond shall be determined by the Hastings City Council or any official of the City of Hastings as may be designated by resolution of the City Council.

(E) *Fees.* All applications for storm water management plan approval shall be accompanied by a processing and approval fee as required by ordinance. (Prior Code, § 15.07) (Ord. 2010-11, 3rd Series, passed 6-21-2010)

## § 152.08 APPROVAL STANDARDS.

(A) *Site dewatering*. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

(B) *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 off by runoff into a receiving channel or storm sewer system.

(C) *Tracking*. Each site shall have graveled roads, access drives, and parking areas of sufficient width and a length providing a minimum of 50 feet of maintained graveled surface both from the edge of the public or private roadway to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday. Failure to keep the public or private roadway clean may result in the city ordering construction halted until the time as the roadways are properly clean.

(D) *Drain inlet protection*. All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence, or equivalent barrier meeting accepted design criteria, standards and specifications included in the City's Builders Handbook and Public Works Design Manual or otherwise approved by the City.

#### (E) Site erosion control.

- (1) Construction Erosion Control
  - (a) Erosion and sediment control measures shall be consistent with Best Management Practices (BMPs), included in the City's Builders Handbook and Public Works Design Manual or otherwise approved by the City, and shall be sufficient to retain sediment on site. The City may at its discretion use turbidity measurements as an indicator of potential non-compliance with erosion and sediment control measures taken. Turbidity measurements will be in accordance with VRWJPO Standards.
  - (b) All temporary erosion and sediment controls shall be installed on all down gradient perimeters before commencing the land disturbing activity, and left in place and maintained as needed until removal is approved by the City after the site had been stabilized. All permanent erosion control measures shall be installed and operational per the design and as approved by the City.
  - (c) For projects disturbing equal to or more than 1 acre, including smaller sites that are

part of a common plan of development.

- (1) Construction activity requirements shall meet the most current requirements of the General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency. Construction activity requirements include, but are not limited to, temporary sediment basins (Part III.C), storm water pollution prevention plan, erosion prevention practices, sediment control practices, dewatering and basin draining, inspection and maintenance, pollution prevention management measures, and final stabilization (Part IV) as referenced in the NPDES General Construction Permit;
- (2) All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 10-year frequency storm without erosion.
- (3) If the activity is taking place on a site where soils are currently disturbed (e.g., a tilled agricultural site that is being developed), areas that will not be graded as part of the development and areas that will not be stabilized according to the timeframes specified in the NPDES General Construction permit Part IV, B.S., shall be seeded with a temporary or permanent cover before commencing the proposed land disturbing activity.
- (d) All activities on the site shall be phased and/or conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
- (e) All disturbed ground left inactive for 14 or more days shall be stabilized by seeding and mulching, sodding, coverings, or other equivalent control measure. Straw, hay, or other vegetative mulch shall be disc anchored. Geotextile or other approved covering shall be anchored in accordance with the manufacturer's specifications.
- (f) Contractor is responsible for submitting to the City an erosion control inspection form after every half inch or greater rain event and at a minimum of one time per week. A rain gage must be present on site.
- (g) Erosion control and erosion control inspection priority must be given to areas susceptible to erosion due to site topography, soil characteristics, quality of receiving water, state of construction, and weather conditions.
- (F) Storm water management criteria for new development or re-development projects with land disturbance of greater than or equal to one acre. (Ord. 2011-20 3<sup>rd</sup> Series, Passed on 9-6-11). Green infrastructure techniques and practices (ie. infiltration, filtration, evapotranspiration, reuse/harvesting, conservation design, urban forestry, green roofs) are to be given highest priority to meet the water quality treatment requirements. Infiltration/filtration options are the preferred approach to satisfying the water quality

treatment requirements of the NPDES General Construction Permit. Rate and volume calculations are to utilize NOAA Atlas 14 precipitation frequency estimates.

#### (1) Conditions

(a) Post Construction Water Quality.

(1) Post construction storm water runoff quality measures shall meet the standard for the General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency.

(2) Storm water discharges of Total Suspended Solids (TSS) and Total Phosphorus (TP) shall have no net increase from pre-project conditions for new development and a net reduction from pre-project conditions for re-development.

(3) Circumstances where the TSS and TP requirements cannot be reasonably achieved on site shall be addressed through mitigation.

- (a) Mitigation projects shall be selected in the following order of preference:
  - (1) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
  - (2) Locations within the same Department of Natural Resource (DNR) catchment area as the original construction activity.
  - (3) Locations in the next adjacent DNR catchment area up-stream.
  - (4) Locations anywhere within the City of Hastings.
- (b) Mitigation projects must involve the creation of new structural stormwater BMPs, retrofit of existing structural stormwater BMPs, or the use of a propertly designed regional structural stormwater BMP.
- (c) Routine maintenance of structural BMPs cannot be used to meet mitigation.
- (d) Mitigation projects shall be completed within 24 months after the start of the original construction activity.
- (e) The long term maintenance for stormwater BMPs shall be determined prior to construction activity.
- (f) If monetary payment is received to satisfy mitigation processes then payment shall be applied to a public stormwater project and comply with City Ordinance 152.08(F)(1)(a)(3)(1)(a-d)

- (b) Peak Runoff Rate.
  - (1) Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management infrastructure shall be signed by a registered professional engineer and approved by the Engineering Department.
  - (2) Runoff rates for proposed land disturbing activities greater than or equal to one acre shall:
    - (a) Utilize an existing condition in the runoff calculation as defined as the land cover condition existing in the year 2005.
    - (b) Not exceed existing runoff rates for the 1-year 24 hour, 10-year 24 hour, 100-year 24 hour, and 100 year 4 day storm events.
- (c) Volume Runoff Criteria.
  - Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management infrastructure shall be signed by a registered professional engineer and approved by the Engineering Department.
  - (2) Runoff volume for proposed land disturbing activities greater than or equal to one acre shall:
    - (a) Utilize an existing condition in the runoff calculation as defined as the land cover condition existing in a pre-project condition.
    - (b) Not exceed the existing pre-project runoff rates for the 2-year 24 hour storm event.
  - (3) Exceptions where a lessor volume control will be acceptable.
    - (a) Infiltration, as listed in 152.08(F)(2)(a), prohibit volume control.
    - (b) Non-infiltration green technologies are implemented to the maximum extent possible.
    - (c) Outlets from landlocked basins with a tributary drainage area of greater than or equal to 100 acres, provided:
      - (1) Outlets are consistent with other portions of the City Ordinances
      - (2) Outlets have been analyzed for any detrimental downstream impacts, riparian impacts, and habitat impacts. The analysis shall include:
        - (a) Use a hydrograph method based on sound hydrologic theory to

analyze runoff for the design or analysis of flows and water levels;

- (b) Ensure a hydrologic analysis is consistent with the Stormwater Runoff Control Criteria of the City Ordinances.
- (c) Ensure the outlet does not create adverse downstream flooding or water quality conditions, or materially affect stability of downstream major waterways;
- (d) Maintain dead storage within the basin to the maximum extent possible while preventing damage to property adjacent to the basin;
- (e) Ensure that the low floors of new structures adjacent to the basin are set consistent with the Floodplain Alterations Rule; and
- (f) Ensure that proposed development tributary to the land-locked basin has incorporated runoff volume control practices to the extent practical.
- (d) Artificial drainage, flow obstruction, and diversions involving waterways, public waters, and wetlands with drainage areas of 640 acres or more, provided:
  - (1) Alterations and diversions are consistent with other portions of the City Ordinances
  - (2) Alterations and diversions have been analyzed for any detrimental downstream impacts, riparian impacts, and habitat impacts. The analysis shall include:
    - (a) Provide reasonable necessity for such drainage alteration or diversion to improve or protect human health and safety, or to improve or protect aquatic resources;
    - (b) Ensure reasonable care has been taken to avoid unnecessary injury to upstream and downstream land;
    - (c) Ensure the utility or benefit accruing to the land on which the drainage will be altered reasonably outweighs the gravity of the harm resulting to the land receiving the burden; and
    - (d) Ensure the drainage alteration or diversion is being accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is being adopted.

- (e) Drainage alterations, diversions, and landlocked basin outlets shall be provided with stable channels and outfall.
- (d) Design Criteria
  - (1) Minimize connected impervious surfaces.
  - (2) Vegetation used in conjunction with infiltration systems must be tolerant of urban pollutants and the range of soil moisture conditions anticipated.
  - (3) Infiltration and filtration areas must be fenced or otherwise protected from disturbance before the land disturbing project begins.
- (2) Limitations of using infiltration techniques to achieve storm water management. Filtration and other green technologies should be considered instead.
  - (a) Conditions
    - (1) Where vehicle fueling and maintenance occur.
    - (2) Where industrial areas with exposed materials are capable of leeching into the soil
    - (3) Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the Agency.
    - (4) Where high level of contaminants in soil or groundwater will be mobilized.
    - (5) Where less than three (3) feet separates the bottom of the infiltration system to the elevation of the top of bedrock or seasonally saturated soils (ie. water table).
    - (6) Type D Soils (clay)
    - (7) Where soil infiltration rates are more than 8.3 inches per hour.
    - (8) Within an emergency response area, as defined by the Drinking Water Surface Management Area (DWSMA).
    - (9) Within the one year travel zone of a municipal or other community supply well as defined in the Hastings Well Head Protection Plan (WHPP). The following design requirements need be adhered to if infiltration for volume control is to be considered as an option:
      - (a) Pretreatment of stormwater runoff is designed to protect infiltration system from clogging with sediment and to protect groundwater quality.
      - (b) Hydrological soil group classification and saturated infiltration rate shall

comply with the current VRWJPO rules.

- (c) Site specific infiltration or hydraulic conductivity measurements shall be performed by a licensed soil scientist or engineer.
- (d) Infiltration rates shall reflect the least permeable horizon within the first five feet below the bottom of the infiltration system.
- (e) Infiltration system shall be capable of infiltrating the required volume within 72 hours.
- (10) Within 100 feet of a private well unless specifically allowed by an approved WHPP.
- (11) Within 1,000 feet up-gradient, or 100 feet down gradient of active karst features.
- (12) Within linear projects where the lack of available or obtainable right-of-way prevents the installation of volume control practices.
- (3) Long term maintenance of structural stormwater BMPs

(a) A legal document shall be executed that determines the party responsible for long term maintenance of the stormwater BMP. Should the BMP be on private property, the agreement shall allow the City to enter the property to inspect, notify owner of maintenance duties, and if necessary conduct necessary maintenance to maintain normal functionality of the BMP. Costs to perform maintenance shall be assessed to the property owner.

#### (G) Wetlands

(1) General Provisions

(a) Any drainage, filling, excavation, or other alteration of a public waters wetland or wetland shall be conducted in compliance with Minnesota Statues, §103G.245, Wetland Conservation Act (WCA), Minnesota Rules 8420, and regulations adopted hereunder.

(b) In order to preserve WCA exemption or no loss determination, projects involving excavation in Types 1, 2, 6, and 7 wetlands must demonstrate a beneficial purpose, such as habitat or water quality improvements, and minimize loss of wetland function as determined by the City.

(c) A high quality (or equivalent value) public waters wetland or wetland (as determined by methods acceptable to the VRWJPO for vegetative diversity) may not be used for stormwater management and treatment unless the use will not adversely affect the function and public value of the wetland and other alternatives do not exist. Runoff shall not be discharged directly into a high quality public water wetlands or wetland (as determined by methods acceptable to the VRWJPO for vegetative diversity) without pretreatment of the runoff.

#### (2) No Net Loss and Wetland Alteration

(a) No permits will be granted until the WCA replacement plan is approved or exemption certificate is obtained. Wetland replacement/mitigation citing must follow the priority order:

(1) Mitigation on-site

(2) Mitigation within the same minor subwatershed as established by the Minnesota Department of Natural Resources for the "1979 Watershed Mapping Project" pursuant to Minnesota Laws 1977, chapter. 455, section33, subdivision 7, paragraph (a).

- (3) Mitigation within the JPO boundary
- (4) Mitigation within Dakota County

(b) Transportation projects shall pursue wetland mitigation projects to the extent practical using the criteria above. However, this does not preclude the use of the BWSR Replacement Program.

(3) Wetland Buffer Areas

(a) Application. Buffer areas abutting all rivers, streams, and wetlands as identified in Figure 4 of the City's Water Management Plan.

(b) Classification. A wetlands functional assessment for vegetative diversity will be completed with each wetland and public waters wetland, delineated for a project and buffers established according to the management classification in the following table. Figure 4 and 8 in the Water Management Plan, as adopted in 2009, delineates three different quality standards for wetlands. All wetlands shown on Figure 8 not shown on Figure 4 are considered Low Quality. Buffers on wetlands begin at the delineated edge of the wetland; (the line where hydrology, vegetation, and soils indicates a change between upland and wetland).

- (1) Exceptional Quality Wetland:
  - (a) Average Buffer Width: 50ft
  - (b) Minimum Buffer Width: 30ft
- (2) High Quality Wetland:
  - (a) Average Buffer Width: 40ft
  - (b) Minimum Buffer Width: 30ft
- (3) Medium Quality Wetland:
  - (a) Average Buffer Width: 30ft

(b) Minimum Buffer Width: 25ft

(4) Low Quality Wetland:

- (a) Average Buffer Width: 25ft
- (b) Minimum Buffer Width: 16.5ft

(c) Buffer area requirements. Where acceptable natural vegetation exists in buffer areas, the retention of such vegetation in an undisturbed state is required unless approval to replace such vegetation is received. A buffer has acceptable vegetation if it:

(1) Has a continuous, dense layer of perennial grasses that has been uncultivated or unbroken for at least 5 consecutive years; or,

(2) Has an overstory of trees and/or shrubs that has been uncultivated or unbroken for at least 5 consecutive years; or,

(3) Contains a mixture of the plant communities in Criteria (c)(1) and (c)(2) above that has been uncultivated or unbroken for at least 5 years.

(d) Maintenance of Buffer Areas. Buffers shall be staked and protected in the field prior to construction unless the vegetation and the condition of the buffer are considered inadequate. Existing conditions vegetation will be considered unacceptable if:

(1) Topography or sparse vegetation tends to channelize the flow of surface water

(2) Some other reason the vegetation is unlikely to retain nutrients and sediment

(e) Requirements for Replanting. Where buffer vegetation and conditions are unacceptable, or where approval has been obtained to replant, buffers shall be replanted and maintained according to the following criteria:

(1) Buffers shall be planted with a native seed mix approved by MnDOT, BWSR, NRCS or the Dakota County SWCD, with the exception of a one-time planting with an annual nurse or cover crop. Plantings of native forbs and grasses may be substituted for seeding. All substitutions must be approved by the City. Groupings/clusters of native trees and shrubs, of species and at densities appropriate to site conditions, shall also be planted throughout the buffer area.

(2) The seed mix and planting shall be broadcast/installed according to MnDOT, BWSR, NRCS or Dakota County SWCD specifications. The selected seed mixes and plantings for permanent cover shall be appropriate for the soil site conditions and free of invasive species.

(3) Buffer vegetation (both natural and created) shall be protected by erosion and sediment control measures during construction.

(4) During the first five full growing seasons, except where the City has determined vegetation establishment is acceptable, the owner or applicant must replant buffer vegetation where the vegetative cover is less than 90%. The owner or applicant must assure reseeding/or replanting if the buffer changes at any time through human intervention or activities.

(f) Conservation Easement. Where a buffer is required, the City shall require the protection of the buffer under a conservation easement, or include the buffer in a dedicated outlet as part of platting and subdivision approval, except where the buffer is located in a public transportation right-of-way. Buffer shall also have monumentation to clearly designate the boundaries of all new buffers within new residential subdivisions. A monument shall consist of a post and a buffer strip sign approved by the City.

(g) Usage:

(1) Alterations, including building, storage, paving, routine mowing, burning, plowing, introduction of noxious vegetation, cutting, dredging, filing, mining, dumping, grazing livestock, agricultural production, yard waste disposal, or fertilizer application are prohibited within any buffer. Periodic mowing or burning, or the use of fertilizers and pesticides for the purpose of managing and maintaining native vegetation, may be allowed with approval of the City. Noxious weeds may be removed and mechanical or spot herbicide treatments may be used to control noxious weeds, but aerial or broadcast spraying is not acceptable. Prohibited alterations would not include plantings that enhance the natural vegetation or selective clearing or pruning of trees or vegetation that are dead, diseased or pose similar hazards, or as otherwise clarified in Criteria 3d.

(2) The following activities shall be permitted within any buffer, and shall not constitute prohibited alterations:

(a) The following activities are allowed within both the minimum and average buffer width areas:

(1) Use and maintenance of an unimproved access strip through the buffer, not more than 10 feet in width, for recreational access to the major waterway or wetland and the exercise of riparian rights;

(2) Structures that exist when the buffer is created;

(3) Placement, maintenance, repair, or replacement of public roads and utility and drainage systems that exist on creation of the buffer or are required to comply with any subdivision approval or building permit obtained from the City, so long as any adverse impacts of public road, utility, or drainage systems on the function of the buffer have been avoided or minimized to the extent practical;

(4) Clearing, grading, and seeding is allowed if part of an approved Wetland Replacement Plan, or approved Stream Restoration Plan.

(5) Construction of a multipurpose trail, including boardwalks and pedestrian bridges, provided it is constructed to minimize erosion and new impervious surface, and has

an undisturbed area of vegetative buffer at least ten (10) feet in width between the trail and the wetland or public waters wetland edge, or the bank of the major waterway; or where needed to cross the major waterway, the minimum impact alignment is used.

(6) The construction of underground utilities such as water, stormwater, and sanitary sewers and. pipelines provided the minimum impact alignment is used, the area is stabilized in accordance with Criteria 3d above, and setbacks established in the Floodplain Alterations Rule, are met.

(b) The following activities are allowed within those portions of the average buffer width that exceed the minimum buffer width:

(1) Stormwater management facilities, provided the land areas are stabilized in accordance with Criteria (e)(1-4) above, and alterations prohibited in Criteria (g)(1) above are upheld.

(2) The area of shallow vegetated infiltration and biofiltration facilities, and water quality ponds not to exceed 50 percent of the pond area, adjacent to wetlands and major waterways may be included in buffer averaging provided the facilities do not encroach into the minimum buffer width, and the land areas are stabilized in accordance with Criteria 3d above, and alterations prohibited in Criteria fl above are upheld. (Ord. 2010-11, 3rd Series, passed 6-21-2010) (Ord. 2015-06, 3<sup>rd</sup> Series, passed on 4-6-15)

# § 152.09 ILLICIT DISCHARGES AND CONNECTIONS

#### (A) Prohibition of Illicit Discharges

(1) No person shall directly or indirectly discharge, or cause others under its control to discharge into the MS4 or surface water any pollutants or waters containing any pollutants, other than storm water. Exempt discharges include:

(a) individual residential car washing, swimming pool discharges dechlorinated to less than 0.1ppm, air conditioning condensation, irrigation water, foundation drains, footing drains, water from crawl space pumps, discharges from potable water sources, water line flushing, fire fighting activities, uncontaminated ground water infiltration, uncontaminated pumped ground water, rising ground waters, springs, diverted stream flows, flows from riparian habitats and wetlands, dye testing provided approval granted by enforcement authority prior to time of test, non-storm water authorized by an NPDES point source permit obtained by the MPCA, any use of fertilizers, herbicides, and pesticides for agriculture or landscaping purposes when applied for their intended purpose in accordance with label directions and with all applicable local, state and federal ordinances, laws, and regulations, and any other waste discharge not containing pollutants.

#### (B) Prohibition of Illicit Connections

(1) No person shall use any illicit connections to intentionally convey non storm water into storm sewer system.

#### (C) Discharge Prevention

(1) No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to a street, storm sewer system, or surface water body may occur.

(2) Recreational vehicle sewage shall be disposed of at a proper sanitary waste facility. Waste must not be discharged in an area where drainage to streets or storm sewer system may occur.(3) Water in swimming pools must sit seven (7) days without the addition of chlorine (to allow for the evaporation of chlorine) before discharge.

(4) Mobile washing companies, such as carpet cleaning and mobile vehicle washing services, shall dispose of any wastewater to the sanitary sewer system. Wastewater shall not be discharged to the streets or storm sewer system.

(5) Objects such as motor vehicle parts that contain grease, oil or other hazardous substances and unsealed receptacles containing hazardous materials shall not be stored in areas susceptible to runoff. 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 any leaks, spills, or discharges.
(6) Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries shall be removed as soon as possible and disposed of properly. Household hazardous waste must be disposed of through the county collection program or at any other authorized disposal site. Household hazardous waste shall not be placed in a trash container.

#### (D) Industrial Activity Discharges

(1) Any person subject to an industrial activity NPDES storm water discharge permit shall comply with all provisions of such permit. All facilities that have an illicit discharge may be required to implement, at owner's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm sewer system.

#### (E) Notification of Spills

(1) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation has information of any known release of materials that are resulting in illicit discharges or pollutants entering the storm sewer system or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. Hazardous emergency discharges shall require immediate notification to emergency dispatch services. Authorized enforcement agency shall be notified by no later than the next business day for non-hazardous, non-emergency related discharges.

#### (F) Access to Facilities

(1) The authorized enforcement authority shall be permitted to enter and inspect all buildings under this chapter as often as may be necessary to determine compliance with this chapter. If a building has security measures in force that require proper identification and clearance before entry into the premises, the owner shall make the necessary arrangements to allow access to the authorized enforcement agency.

(2) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, dye testing, examination and copying of records that relate to the discharge of storm water.

(3) The authorized enforcement agency shall have the right to set up at any building such devices as necessary to conduct monitoring, sampling or dye testing of the facilities stormwater discharge.

(4) The authorized enforcement agency has the right to require the illicit discharger to install monitoring equipment as necessary. The facilities sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the operator at the request of the authorized enforcement agency. The costs of clearing such access shall be paid by the operator.(6) Unreasonable delays in allowing the authorized enforcement agency access to a facility are a violation of this chapter.

(7) If the authorized enforcement agency has been refused access to any part of the premises from which storm water is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter 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 jurisdiction.

(G) Enforcement

(1) Notice of Violation

(a) Whenever a City finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require:

- (1) Monitoring, analysis, and reporting;
- (2) The elimination of illicit discharges and connections;
- (3) Abatement of pollution and hazards
- (4) Restoration of affected property
- (5) Remediation of violation
- (6) Implementation of source control or treatment BMPs
- (2) Failure to Satisfy Notice of Violation

(a) If a responsible party fails or refuses to meet the requirements of the Notice of Violation within the appropriate time specified, the City, after reasonable notification, may correct a violation and may assess the owner(s) of the facility for the cost of the repair work. Penalties and the cost of the work may be charged a special assessment against the property.

(3) Appeal of Notice of Violation

(a) Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency by filing an appeal with the authorized enforcement agency within seven (7) calendar days from the date of the notice of violation. A hearing on the appeal will be before the City Council within thirty (30) days of the receipt of the appeal. The decision of the City Council shall be final.

(Prior Code, § 15.09) (Ord. 2010-11, 3rd Series, passed 6-21-2010) (Ord. 2011-20, 3<sup>rd</sup> Series, passed 9-6-11)

# 152.10 OTHER CONTROLS.

# § 152.98 VIOLATIONS.

Every person violates a section, subdivision, paragraph, or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (Prior Code, § 15.99) (Ord. 2010-11, 3rd Series, passed 6-21-2010) Penalty, see § 10.99