

CHAPTER 93

STORMWATER MANAGEMENT - STORMWATER POLLUTION PREVENTION

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10-93-1: PURPOSE: The purpose of this Chapter is to control or eliminate stormwater pollution along with soil erosion and sedimentation within the City. It establishes standards and specifications for conservation practices and planning services, which minimize stormwater pollution, soil erosion, and sedimentation.

10-93-2: SCOPE: Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the City shall submit to the City, for approval, a Stormwater Pollution Prevention Plan, as required by this Ordinance. No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.

10-93-3: STORMWATER POLLUTION PREVENTION PLAN: Every applicant for a building permit with twenty thousand (20,000) square feet or more of land disturbance, subdivision approval, or a permit to allow for excavation, filling, grading, or other such activity shall submit a Stormwater Pollution Prevention Plan to the City Engineer for review and approval. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until the City approves this plan. At a minimum these pollution abatement control practices must conform to those in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas".

A. **General Policy on Stormwater Runoff Rates.** Proposed stormwater runoff rates must be at or below ninety (90) percent of the predevelopment two (2) year,

ten (10) year and one hundred (100) year peak storm discharge rates, based on the immediate preceding ten (10) years of land use. Also, accelerated channel erosion must not occur as a result of the proposed activity.

- B. The Stormwater Pollution Prevention Plan and the Grading Plan.** The Stormwater Pollution Prevention Plan measures and limits the area of disturbed surface and identifies the location of buffers. All land disturbance activities and buffers shall be marked on the approved grading plan, and identified with flags, stakes, signs, fences, etc. on the development site before work begins.
- C. Inspections of the Stormwater Pollution Prevention Plan Measures.** At a minimum such inspections shall be done weekly and after every storm event that produces one-half (0.5) inches of rainfall in twenty-four hours either by the applicant or the applicant's designated representative.
- D. Minimum Requirements of the Stormwater Pollution Prevention Plan.**
1. **Project Description.** The nature and purpose of the land disturbing activity and the amount of grading, utilities, and building construction involved.
 2. **Phasing of Construction.** Time frames and schedules for the project's various aspects.
 3. **A Map of the Existing Site Conditions.** Existing topography, property information, steep slopes, existing drainage systems/patterns, type of soils, waterways, wetlands, vegetative cover, one hundred (100) year flood plain boundaries, locations of existing and future buffer strips.
 4. **A site construction plan that includes the proposed land disturbing activities, stockpile locations, erosion and sediment control plan, construction schedule, and the plan for the maintenance and inspections of the stormwater pollution prevention measures.**
 5. **Adjacent Areas.** Neighboring streams, lakes, residential areas, roads, etc., which might be affected by the land disturbing activity.
 6. **Designate the site's areas that have the potential for serious erosion problems.**
 7. **Erosion and sediment control measures.** The methods that will be used to control erosion and sedimentation on the site, both during and after the construction process.
 8. **Permanent Stabilization.** How the site will be stabilized after construction is completed, including specifications, time frames or schedules.

9. The following shall be used as a basis for calculations in the City.
 - a. One Year Event. Two and three-tenths (2.3) inches of rainfall (for Land Disturbing Activities covered under Appendix A of the MPCA's NPDES/SDS General Stormwater Permit for Construction Activity).
 - b. Two Year Event. Two and seven-tenths (2.7) inches of rainfall (included in all submittals where Permanent Controls are necessary)
 - c. Ten Year Event. Four and one-tenth (4.1) inches of rainfall (included in all submittals where Permanent Controls are necessary)
 - d. One Hundred Year Event. Five and nine-tenths (5.9) inches of rainfall (included in all submittals where Permanent Controls are necessary)
10. Calculations:
 - a. Any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones, piping systems and other applicable practices.
 - b. Show the back-to-back 100-year storm event for Emergency Overflow routing.

E. **General Stormwater Pollution Prevention Plan Criteria.** The plan shall address the following:

1. Stabilizing all exposed soils and soil stockpiles and the related time frames or schedule associated with stabilization.
2. Establishing permanent vegetation and the related time frame or schedule.
3. Preventing sediment damage to adjacent properties and other designated areas such as streams, wetlands, lakes and unique vegetation (e.g., oak groves, rare and endangered species habitat.)
4. Scheduling for erosion and sediment control practices.
5. The location of permanent and temporary sedimentation basins.
6. Engineering the construction and stabilization of steep slopes.

7. Measures that will control the quality and quantity of stormwater leaving a site.
8. Stabilizing all waterways and outlets.
9. The protection and prevention of sediment from entering storm sewers.
10. Precautions to be taken to contain sediment when working in or crossing water bodies.
11. Re-stabilizing utility construction areas as soon as possible.
12. Protecting paved roads from sediment and soils brought in from access routes.
13. Disposing of temporary erosion and sediment control measures.
14. The maintenance of temporary and permanent erosion and sediment control practices.
15. The disposal of collected sediment and floating debris.

F. **Minimum Stormwater Pollution Prevention Measures and Related Inspections.** These minimum control measures are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated.

1. All grading plans and building site surveys must be reviewed by the City for effectiveness of erosion control measures in the context of the site topography and drainage.
2. Sediment control measures must be properly installed by the applicant/contractor before construction activity begins. Such structures may be adjusted during dry weather to accommodate short term activities, such as those that require very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the City. An inspection to confirm compliance shall then be scheduled, and passed before a footing inspection will be done.
3. Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.
4. Easements. If a stormwater management plan involves directing some or all of the site's runoff, the applicant or his designated representative shall

obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of such water.

5. The scheduling of the site's activities to lessen their impact on erosion and sediment creation.
6. Minimize amount of exposed soil.
7. Control runoff as follows (either a. and b. or a. and c. below):
 - a. Unless precluded by moderate or heavy snow cover (mulching can take place if a light snow cover is present), stabilize all exposed inactive disturbed soil areas within two hundred (200) feet of any water of the state, or any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) to a water of the state with sod, seed or weed free mulch. This must be done, if no land disturbing activities are completed for seven (7) days on slopes greater than three feet horizontal to one foot vertical (3:1), or for fourteen (14) days on slopes less than three to one (3:1).
 - b. For disturbed areas greater than ten (10) acres construct temporary or permanent sedimentation basins. Sedimentation basins must have a minimum surface area equal to at least one (1) percent of the area draining to basin, and be constructed in accordance with accepted design specifications including access for operations and maintenance. These basins must conform to requirements of the National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater Permit. Basin discharge rates must also be controlled to prevent erosion in the discharge channel. The applicant is required to obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Phase II (or most current) construction stormwater permit from the Minnesota Pollution Control Agency for any project that disturbs one (1) acre or more of land.
 - c. For disturbed areas less than ten (10) acres sedimentation basins are encouraged, but not required, unless specifically required by the City Engineer. The applicant shall install erosion and sediment controls at locations directed by the City. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences are required along channel edges to prevent sediment from reaching the channel. Silt fences, rock check dams, etc. must be regularly inspected and maintained in accordance with the most current MPCA NPDES Construction Stormwater Permit.

8. Infiltration of the first five-tenths (0.5) inches of rainfall over new impervious surfaces will be required for all new development or redevelopment projects.
 - a. This requirement can be waived if, at the discretion of the City, the site is not considered suitable for infiltration.
 - b. This requirement can be waived if, at the discretion of the City, the site has the potential to contaminate the groundwater.
 - c. This requirement will be waived if the project is in a Drinking Water Supply Management Area, as defined by the City.
9. Treatment of stormwater to meet NURP guidelines is required prior to discharge to a surface water.
10. Sediment basins related to impervious surface area. Where a project's ultimate development replaces surface vegetation with one (1) or more acres of cumulative impervious surface, and all runoff has not been accounted for in a local unit of government's existing stormwater management plan or practice, the runoff must be discharged to an infiltration basin, unless infiltration is not allowed in the area, a wet sedimentation basin, or a regional facility prior to entering waters of the state. At a minimum, the improvements must conform to the current version of the Minnesota Pollution Control Agency's publication: "Protecting Water Quality in Urban Areas" and/or the current version of the Minnesota Pollution Control Agency's publication, "The Minnesota Stormwater Manual", the current requirements found in the same agency's NPDES/SDS permits for stormwater associated with construction activities, and all other requirements of this ordinance.
11. Additional Requirements for "Special Waters":
 - a. The Rum River is classified as a "Scenic or Recreational River Segment" by the Minnesota Pollution Control Agency. This classification causes the river to fall under the "Special Water" designation and requires additional consideration for stormwater pollution prevention. Reference requirements of the Minnesota Pollution Control Agency's NPDES/SDS General Stormwater Permit for Construction Activity for work in the vicinity of a Special Water.
 - (1) Shortened time periods for restoring areas within a certain distance of a special water or impaired water as defined in the Permit.

- (2) More stringent requirements for temporary erosion and sediment control measures as defined in the Permit.
 - (3) More stringent requirements for infiltration as a permanent erosion and sediment control measure as defined in the Permit.
 - (4) An undisturbed buffer area of one hundred (100) feet as described in the Permit.
 - (5) Additional volume controls for new impervious areas when the discharge point is within one (1) mile of the special water and flows to the special water. See the Permit for related information.
12. Generally, sufficient silt fences will be required to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through silt fence's pores.
13. Temporary stockpiling of fifty (50) or more cubic yards of excess soil on any lot or other vacant area will not be allowed without issuance of a grading permit for the earth moving activity in question.
14. For soil stockpiles greater than ten (10) cubic yards, the toe of the pile must be more than twenty-five (25) feet from a road, drainage channel or stormwater inlet. If left for more than seven (7) days, they must be stabilized with mulch, vegetation, tarps or other means. If left for less than seven (7) days, erosion from stockpiles must be controlled with silt fences or rock check dams.
 - a. If for any reason a soil stockpile of any size is located closer than twenty-five (25) feet from a road, drainage channel or stormwater inlet, and left for more than seven (7) days, it must be covered with tarps or controlled in some other manner.
15. All sand, gravel or other mining operations taking place on the development site shall have a National Pollutant Discharge Elimination System General Stormwater Permit for industrial activities and all required Minnesota Department of Natural Resources permits.
16. Temporary rock construction entrances are required wherever vehicles enter and exit a site unless otherwise approved by the City Engineer.
17. Parking is prohibited on all bare lots and all temporary rock construction entrances, except where street parking is not available. Rock construction entrances are to be used for deliveries of material and equipment only.

18. Traveled surfaces including but not limited to streets, parking lots, sidewalks and trails must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends or holidays. Establishment of a regular sweeping schedule is encouraged.
19. Water, impacted by the construction activity, that is being removed from the site by pumping must be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Such water shall not be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property, or a wetland.
20. All storm drain inlets must be protected during construction until control measures are in place with either a silt fence or an equivalent barrier that meets accepted design criteria, standards and specifications as contained in the latest version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas".
21. Catch basins. All newly installed and rehabilitated catch basins immediately prior to rivers, lakes, streams, or wetlands must be provided with a minimum three (3) foot sump area for collecting coarse-grained material or a permanent sedimentation pond between the outlet and such water bodies.
22. Roof drain leaders. All newly constructed and reconstructed buildings must route drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.
23. Follow-up inspections must be performed by the City on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant and/or builder to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, construction stop orders may be issued by the City, until erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.
24. Where in-place measures are not effective, additional SWPPP measures shall be required to satisfy requirements of this ordinance.
25. Inspection and Maintenance. All stormwater pollution control management facilities must be designed to minimize the need of maintenance, to provide easy vehicle and personnel access for maintenance purposes,

and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in stormwater runoff. The City or its designated representative shall inspect all stormwater management facilities during construction, during the first year of operation and at least once every five (5) years thereafter. The City will keep all inspection records on file for a period of six (6) years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow permanent access to the stormwater management facilities for inspection and maintenance purpose.

G. Permanent Stormwater Pollution Controls.

1. The applicant shall install or construct, and pay all appropriate City Stormwater Fees for all stormwater management facilities necessary to manage increased runoff, so that the proposed stormwater runoff rates are at or below ninety (90) percent of the predevelopment two (2) year, ten (10) year and one hundred (100) year peak storm discharge rates, based on the immediate preceding ten (10) years of land use. The applicant shall also make an in-kind or monetary contribution to the development and maintenance of community stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
2. All calculations and information used in determining these peak storm discharge rates shall be submitted along with the Stormwater Pollution Prevention Plan for the review and approval of the City Engineer.
 - a. Calculations
 - (1) Any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones, piping systems and other applicable practices.
 - (2) Show the back-to-back 100-year storm event for Emergency Overflow routing.
 - b. Additional Information.
 - (1) Maps, figures, soil sampling results, and other relevant information used with the calculations.
3. The applicant shall consider reducing the need for stormwater management facilities 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 treated (e.g. settled) water without compromising the integrity or quality of the water body or pond.

4. The following stormwater management practices must be investigated in developing the stormwater management part of the Stormwater Pollution Prevention Plan in the following descending order of preference:
 - a. Protect and preserve as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches.
 - b. Flow attenuation by use of open vegetated swales and natural depressions;
 - c. Infiltration basin, unless in an area where they are prohibited;
 - d. Stormwater wet detention facilities (including percolation facilities), and
 - e. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection (A) above. The applicant shall provide justification for the method selected.

5. Minimum Design Standards for all Stormwater Facilities.
 - a. At a minimum these facilities must conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas" and the current requirements found in the same agency's NPDES permits for stormwater associated with construction activities. Other requirements are presented below:
 - b. Major stormwater facilities (i.e., ponds, pond outlet systems, and major conveyance systems) shall be designed for a return period of one hundred (100) years.
 - c. All minor drainage systems (i.e., piped collection systems and minor conveyance systems) shall be designed for a return period of ten (10) years.
 - d. Minimum building elevations shall be above designed or designated flood levels. The lowest building floor elevation shall be one (1) foot above the 100-year flood level or one (1) foot above the pond

EOF, whichever is higher. The 100-year flood level shall be the highest 100-year level resulting from a single event analysis; the 100-year, 10-day snowmelt event; a multiple day runoff event analysis, or the critical event analysis.

- e. Minimum opening elevations shall be above designed or designated flood levels. The minimum building opening elevation shall be one (1) foot above the 100-year flood level or pond EOF. The 100-year flood level shall be the highest 100-year level resulting from a single event analysis; the 100-year, 10-day snowmelt event; a multiple day runoff event analysis, or the critical event analysis.
- f. Landlocked runoff basins shall be sized to handle back-to-back 100-year SCS twenty-four (24) hour rainfall events, the ten (10) inch SCS twenty-four (24) hour rainfall event or the 100-year, 10-day snowmelt snow melt event, whichever produces the higher peak pond elevation (Landlocked HWL). The lowest building floor elevation around landlocked basins shall be two (2) feet above the Landlocked HWL.
- g. Emergency overflows or outlets to drainage systems shall be provided to any landlocked area if the available stormwater storage capacity is inadequate to prevent flooding of residences and if the available downstream conveyance system capacity is adequate to accept additional flow.
- h. The area of a pond's HWL plus one (1) foot of freeboard shall be contained entirely within an outlot, or drainage and utility easement, that is owned by the City.
- i. Pre- and Post-development discharge rates shall be generated using SCS TR 20 or SCS TR 55 methodology using a twenty-four (24) hour SCS type II rainfall distribution. The two (2) year, twenty-four (24) hour rainfall depth shall be two and seven-tenths (2.7) inches of total precipitation, ten (10) year, twenty-four (24) hour rainfall depth shall be four and one-tenth (4.1) inches of total precipitation, and the 100-year, twenty-four (24) hour rainfall depth shall be five and nine-tenths (5.9) inches of total precipitation.
- j. The SCS runoff curve number (CN) for the existing undeveloped areas and the minimum CN's for developed conditions shall be limited to that shown in the following table:

Maximum existing	CN = 55
Minimum residential development	CN = 65

Minimum commercial developmentCN = 90
Minimum industrial developmentCN = 90

- k. These maxima and minima are general in nature and typically apply to previously undeveloped land. There will undoubtedly be cases where the existing land exists as pasture, wetlands, ungrazed meadows, etc. which will require appropriate curve number adjustment in accordance with standard SCS TR-20 and TR-55 methodology.
- l. The post development runoff rates shall be controlled using infiltration practices, other BMPs, or wet retention basins.

H. Additional Minimum Design Standards for Stormwater Infiltration Facilities.

At a minimum these facilities must conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency's publication, "The Minnesota Stormwater Manual" and the current requirements found in the same agency's NPDES permits for stormwater associated with construction activities. In addition, the basins shall meet the requirements identified in the Upper Rum River Watershed Management Organization's Watershed Management Plan Amendment titled "Stormwater Infiltration Standards".

I. Additional Minimum Design Standards for Stormwater Wet Detention Facilities.

At a minimum these facilities must conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas" and the current requirements found in the same agency's NPDES permits for stormwater associated with construction activities. Other requirements are presented below:

1. Wet Retention Basins

- a. Wet retention basins shall be designed with dead storage volumes (permanent pool volumes) in accordance with the following:
 - (1) The dead storage volume shall be greater than or equal to the runoff from a two and one-half (2.5) inch storm over the entire drainage area assuming full development.
 - (2) The dead storage volumes shall be a minimum of one thousand eight hundred (1,800) cubic feet for each acre that drains to the pond.
- b. The mean pond depth (pond volume/surface area) should be three (3) feet and not more than ten (10) feet.

- c. An emergency spillway, capable of controlling the 100-year storm event, should be included.
- d. The pond should have a safety bench extending from the edge of the water into the pond a minimum distance of ten (10) feet with a maximum slope of ten to one (10:1) (i.e., the pond should be no greater than one (1) foot in depth within ten (10) feet of the shoreline.
- e. The maximum interior pond slopes, inside the safety bench should be no greater than four to one (4:1) (horizontal to vertical).
- f. The maximum exterior pond slopes, outside the safety bench should be no greater than four to one (4:1) (horizontal to vertical).
- g. The distance of the pond outlet structure from the pond inlet shall be maximized. The outlet should be no closer than fifty (50) percent of the pond length from the pond inlet to prevent short circuiting.
- h. The pond outlet structure shall be designed to skim and prevent floating debris from leaving the pond.
 - (1) The structure shall be designed so the skimmer extends a minimum of four (4) inches below the water surface.
 - (2) The water passing under the skimmer shall have a maximum velocity of five-tenths (0.5) feet per second during a one (1) year storm event.
- i. The pond outlet structure shall be designed to reduce peak discharges to meet the specific requirements of this ordinance. The principal spillway design may include a small orifice, a perforated riser or a compound weir to reduce peak discharges for more frequent storms.
- j. Where infiltration basins or other BMPs are possible and allowed by the Wellhead protection plan, the Walker dead storage volumes as calculated herein may be modified to account for the infiltration volumes.
- k. Permanent access shall be provided to all permanent basins. Access routes shall be limited to a maximum grade of eight (8) percent.

J. Models/Methodologies Computations. Hydrologic models and design methodologies used for determining runoff characteristics and analyzing

stormwater management structures must be approved by the City Engineer. Plans, specifications and computations for stormwater management facilities submitted for review must be sealed and signed by a registered professional engineer licensed in the State of Minnesota. All computations must appear in the plans submitted for review, unless otherwise approved by the City Engineer.

10-93-4: REVIEW: The City Engineer shall review the Stormwater Pollution Prevention Plan.

- A. **Permit Required.** If the City determines that the Stormwater Pollution Prevention Plan meets the requirements of this ordinance, the City shall issue a permit valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of the approved plan.
- B. **Denial.** If the City determines that the Stormwater Pollution Prevention Plan does not meet the requirements of this ordinance, the City shall not issue a permit for the land disturbance activity. All land use and building permits must be suspended until the applicant has an approved Stormwater Pollution Prevention Plan.

10-93-5: MODIFICATION OF PLAN: An approved Stormwater Pollution Prevention Plan may be modified on submission of a written application for modification to the City, and after written approval by the City Engineer. In reviewing such an application, the City Engineer may require additional reports and data.

- A. **Records Retention.** The City shall retain the written records of such modifications for at least five (5) years.

10-93-6: FINANCIAL SECURITIES: The applicant shall provide security for the performance of the work described and delineated on the approved grading plan involving the Stormwater Pollution Prevention Plan related remedial work in an amount of \$2,000 per gross acre or \$750 for each single or twin family home, whichever is greater. This security must be available prior to commencing the project. The form of the securities must be;

- A. **Currency.** The first \$10,000 (in U.S. currency) or fifteen (15) percent, whichever is greater, of this financial security must be by cash deposit to the City,
- B. **Deposit.** Deposit, either with the City, a responsible escrow agent, or trust company, at the option of the City, money, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges that the funds are on

deposit and guaranteed for payment. The type of security must be of a type acceptable by the City,

- C. **Financial Security.** The City may request a greater financial security, if the City considers that the development site is especially prone to erosion or the resource to be protected is especially valuable.
- D. **Maintaining the Financial Security.** If at anytime during the course of the work the security falls below fifty (50) percent of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount.
 - 1. 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 fifty (50) percent of the required amount the City may:
 - a. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 - b. 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.
- E. **Proportional Reduction of the Financial Security.** When more than half of the development's exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by half, if recommended by the City Engineer.
- F. **Action Against the Financial Security.** The City may act against the financial security if any of the conditions listed below exist. The City shall use funds from this security to finance remedial work undertaken by the City or a private contractor under contract to 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, consultant time, and attorney's fees.
 - 1. The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
 - 2. The applicant fails to conform to the grading plan and/or the Stormwater Pollution Prevention Plan as approved by the City.
 - 3. The techniques utilized under the Stormwater Pollution Prevention Plan fail within one year of installation.
 - 4. The applicant fails to reimburse the City for corrective action taken under Section 10-93-7 of this Ordinance.

- G. **Returning the Financial Security.** Any unspent amount of the financial security deposited with the City for faithful performance of the Stormwater Pollution Prevention Plan and any Stormwater Pollution Prevention Plan related remedial work must be released one full year after the completion of the installation of all stormwater pollution control measures as shown on the grading and/or Stormwater Pollution Prevention Plan and establishment of final stabilization.

10-93-7: RIGHT OF ENTRY AND INSPECTION:

- A. **Powers.** The permittee 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 to be kept under the terms and conditions of this permitted site.
 4. Inspect the stormwater pollution control measures required as part of the Storm Water Pollution Prevention Plan.
 5. Sample and monitor any items or activities pertaining to permits issued by the City.

10-93-8: NOTIFICATION OF FAILURE OF THE STORMWATER POLLUTION PREVENTION PLAN: The City shall notify the permittee when the City is going to act on the financial securities part of this ordinance.

- A. **Notification by the City.** The initial contact will be to a party or parties listed on the application and/or the Stormwater Pollution Prevention Plan. Forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City, at its discretion, may begin corrective work.
- B. **Erosion Off-Site.** If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City,

shall more than seven (7) calendar days lapse without corrective action being taken. If in the discretion of the City, the applicant does not repair the damage caused by erosion, the City may do the remedial work required and charge the cost to the applicant.

- C. **Erosion into Streets, Wetlands or Water Bodies.** If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands or other water bodies, prevention strategies, cleanup and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- D. **Failure to Do Corrective Work.** When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take the following actions:
1. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 2. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
 3. Direct the correction of the deficiency by the City or by a separate contract. The issuance of a permit constitutes a right-of entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.
 4. All costs incurred by the City in correcting stormwater pollution control deficiencies must be reimbursed by the applicant. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities as described in Section 10-93-6 of this Ordinance.
 5. If there is an insufficient financial amount, in the applicant's financial securities as described in Section 10-93-6 of this Ordinance to cover the costs incurred by the City, then the City may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of assessment.

10-93-9: VARIANCE: In any case where, upon application of the responsible person or persons, the City finds that by reason of exceptional circumstances strict conformity with this ordinance would be unreasonable, impractical, or not feasible under the circumstances; the City in its discretion may grant a variance there from upon such conditions as it may prescribe for prevention, control, or abatement of pollution in harmony with the general purposes of this ordinance. The variance shall be processed in compliance with Chapter 8 of this Ordinance.

10-93-10: ENFORCEMENT: The City is responsible for enforcement of this Ordinance and shall act in accordance with Section 10-3-9 of this Ordinance.

10-93-11: ABROGATION AND GREATER RESTRICTIONS: It is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

10-93-12: SEVERABILITY: The provisions of this ordinance are severable, and if any provisions of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Ordinance must not be affected thereby.