

927. EROSION CONTROL ORDINANCE

927.010. PURPOSE, SCOPE, AND DEFINITIONS

- A. Purpose: The purpose of this ordinance is to control or eliminate storm water pollution along with soil erosion and sedimentation within the City. It establishes standards and specifications for conservation practices and planning activities designed to minimize nonpoint source pollution, soil erosion and sedimentation.
- B. 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 apply to the City for the approval of the Stormwater Pollution Prevention Plan (SWPPP). No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.
- C. Definitions: Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have in common usage and to give this Chapter its most reasonable application. For the purpose of this Chapter, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally. As used in this Chapter, words and terms shall have the meanings ascribed to them in Appendix B.

927.020. GENERAL REQUIREMENTS

- A. The following shall be requirements for any and all land disturbance projects, regardless of size, that will result in drainage impacts to neighboring property, waterways, wetlands, water bodies, street rights-of-ways, or easement areas:
 - 1. Silt fence – Silt fence shall be installed around all construction sites to prevent erosion and eliminate sediment from leaving the disturbed areas.
 - 2. Street sweeping/cleaning – Streets shall be cleaned and swept by the conclusion of each day or as directed by the City and before sites are left idle for weekends and holidays. If street sweeping is not being completed as described the City shall have the right to complete the sweeping and bill all associated costs back to the owner.
 - 3. Stock Piles – All stockpiles shall be protected from erosion thru the use of silt fence, temporary seeding and mulch, biorolls, covering with a tarp or geotextile, or other method approved by the City Engineer.
- B. Projects that disturb than less 20,000 square feet shall not require the application or receipt of a permit for the work. However, the above conditions shall apply.

927.030. SWPPP

- A. General Criteria for SWPPP. The SWPPP shall be required for any project that disturbs 20,000 square feet or more and shall meet the following criteria:
1. Minimize, in area and duration, exposed soil and unstable soil conditions.
 2. Minimize disturbance of natural soil cover and vegetation.
 3. Protect receiving water bodies, wetlands and storm sewer inlets.
 4. Protect adjacent properties from sediment deposition.
 5. Minimize off-site sediment transport on trucks and equipment.
 6. Minimize work in and adjacent to water bodies and wetlands.
 7. Maintain stable slopes.
 8. Avoid steep slopes and the need for high cuts and fills.
 9. Minimize disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing.
 10. Minimize the compaction of site soils.
- B. SWPPP Requirements. The SWPPP shall include the following on all relevant plans and drawings:
1. Site plans for existing and proposed conditions. A complete site plan and specifications, signed by the person who designed the plan 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 and existing elevations, property lines and lot dimensions in relation to surrounding roads, buildings and other structures, and other significant geographic features.
 - b. Identification of all natural and artificial water features (including drain tiles) on site and within 1/2 mile of project boundary, including, but not limited to lakes, ponds, streams (including intermittent streams), wetlands, natural or artificial water diversion or detention areas, subsurface drainage facility, stormwater conveyance, and storm sewer catch basins. If the site is less than

one (1) acre, water features should be shown within 200-feet of the site. 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.

- c. Map of watershed drainage areas showing direction of flow for pre and post construction drainage and soil types.
- d. If the site has proposed infiltration basins or when deemed necessary by the Engineer, then the following information shall also be included; infiltration rates, depth to bedrock, and depth to seasonal high water table.
- e. Existing and proposed grades showing drainage on and adjacent to the site.
- f. Existing and proposed impervious surfaces.
- g. Steep slopes of 12% more.
- h. Location of all areas not to be disturbed during construction including trees, vegetation, and appropriated areas for infiltration.
- i. Proposed grading or other land-disturbing activity including areas of grubbing, clearing, tree removal, grading, excavation, fill and other disturbance; areas of soil or earth material storage
- j. When deemed necessary by the Engineer, the following information shall be included; quantities of soil or earth material to be removed, placed, stored or otherwise moved on site, and delineated limits of disturbance.
- k. Locations of proposed runoff control, erosion prevention, sediment control, and temporary and permanent soil stabilization measures.
- l. If more than 10 acres are disturbed and drained to a single point of discharge, temporary sediment basins must be installed, however, if the site has special waters as determined by the City or defined by the NPDES Construction Permit requirements, then temporary sediment basins must be installed where 5 or more acres are disturbed. 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.

2. SWPPP Specifications. The Stormwater Pollution Prevention Plan (SWPPP) shall include a specifications section that addresses and includes the following requirements:
 - a. For all land disturbing activities covering one (1) acre or more, the applicant shall comply with all requirements of the NPDES Phase II regulations.
 - b. Identification of the nature of the construction activity and the potential for sediment and other pollutant discharges from the site.
 - c. Designation of an individual to oversee implementation of the SWPPP and provide a chain of responsibility.
 - d. Stockpiles of soil or other materials subject to erosion by wind or water shall be covered, vegetated, enclosed, fenced on the down gradient side or otherwise effectively protected from erosion in accordance with the amount of time the material will be on site and the manner of its proposed use. No stockpiling is allowed in the street.
 - e. Measures and procedures to reasonably minimize site soil compaction.
 - f. Provide that all silt fences used for erosion and sedimentation control and all other temporary controls shall not be removed until the City has determined that the site has been permanently stabilized and shall be removed within 30 days thereafter.
 - g. Methods to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened and/or endangered species habitat, wildlife corridors, greenways, etc.
 - h. Design and construction methods to stabilize steep slopes.
 - i. Measures to control the quality and quantity of stormwater leaving a site before, during, and after construction.
 - j. Stabilization of all waterways and outlets.
 - k. Protection of storm sewer infrastructure from sediment loading/plugging.
 - l. Precautions taken to contain sediment when working in or crossing water bodies.

- m. Stabilization of disturbed areas, including utility construction areas, as soon as possible.
 - n. Protection of outlying roads from sediment and mud from construction site activities.
 - o. Disposal of collected sediment and floating debris.
 - p. Any mitigation measures required as a result of any review conducted for the project (e.g. wetland mitigation, etc.).
 - q. Any additional measures to comply with surface and groundwater standards in sensitive areas (e.g. karst areas, trout stream watersheds, etc.).
3. Schedule of events. A detailed schedule indicating dates and sequence of land alteration activities; implementation, maintenance and removal of erosion and sedimentation control measures; and permanent site stabilization measures shall be provided.
 4. Monitoring and inspection. A detailed description of how erosion control, sediment control and soil stabilization measures implemented pursuant to the SWPPP will be monitored, maintained and removed. The SWPPP must identify a person knowledgeable and experienced in erosion and sediment control who will oversee the implementation of the SWPPP and the installation, inspection, and maintenance of the temporary and permanent stormwater management system. This person shall have completed an approved training and certification program. For sites less than one (1) acre, the person who will oversee the implementation of the SWPPP does not need to have completed approved training unless the site is directly adjacent to a water body.
 5. Other information. The City will require additional or modified information as warranted.
 - a. On the request of an applicant proposing to landscape an improved residential property and a finding that certain required information is not needed to assess the characteristics of the property and the adequacy of proposed control measures, the City may reduce the submittal requirements of this section.
 - b. On a determination that the condition of the soils is unknown or unclear and that additional information is required to find that an applicant's proposed activity will meet the standards and purposes of this rule, the City may require soil borings or other site investigation to be conducted and may require submission of a

soils engineering or geology report. The report shall include the following as requested by the City.

- (1) Data and information obtained from the requested site investigation.
- (2) A description of the types, composition, permeability, stability, erodibility and distribution of existing soils on site.
- (3) A description of site geology.
- (4) Conclusions and revisions, if any, to the proposed land-disturbing activity at the site or the erosion control plan, including revisions of plans and specifications.

- c. The SWPPP shall be modified when there is a change in design, operation, maintenance, weather or seasonal conditions that have a significant effect on discharge and/or inspections indicate that the plan is not effective and existing BMPs are not controlling pollutants and discharges from the site.

C. SWPPP Performance Standards and Design Criteria. All SWPPPs shall be reviewed by the City for effectiveness of erosion and sediment control measures in the context of the site topography and drainage. Proposed design, suggested location and phased implementation of effective, practicable stormwater pollution prevention measures for SWPPPs shall be designed, engineered and implemented using the following performance standards and design criteria.

1. Runoff easements - If a stormwater management plan involves directing some or all runoff from the site, the applicant shall obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.
2. Scheduling site activities - The applicant shall schedule site activities to lessen their impact on erosion and sediment creation.
3. Minimize exposed soil - The applicant shall minimize the amount of exposed soil. Mass grading should be avoided and sequencing promoted.
4. Perimeter sediment controls - Perimeter sediment control measures shall be properly installed by the builder 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. A sediment control inspection as part of the footing inspection will be done.

5. Channel protection - Channels shall be diverted around disturbed areas if practical, or other channel protection measures will be required. The normal wetted perimeter of any temporary or permanent drainage channel must be stabilized within 200 lineal feet from the property edge, or from a point of discharge to any surface water. Stabilization must be completed within 24 hours of connecting to surface water. Sediment control is required along channel edges to reduce sediment reaching channel.
6. Outlet Protection- pipe outlets must have energy dissipation installed within 24 hours of connection to a surface water.
7. Erosion and sediment control methods - The applicant shall control runoff as follows (a and b or a and c):
 - a. All exposed soil areas with a continuous positive slope that are within 200 lineal feet of any surface water, or any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) to a surface water, must have temporary or permanent cover year round. The area shall be stabilized if it has not been worked for seven (7) days on slopes greater than three feet horizontal to one foot vertical (3:1), fourteen (14) days on slopes ranging from 3:1 to 10:1 and twenty-one (21) days for flatter slopes. On sensitive sites exposed soil areas with a greater than three feet horizontal to one foot vertical (3:1) shall be stabilized in three (3) days and all other cases seven (7) days. All exposed soil areas must have temporary erosion protection or permanent cover no later than November 1st regardless of the stabilization requirements listed above. All exposed soils from construction activities taking place after November 1st must provide temporary erosion protection or permanent cover by the end of the work day.
 - b. If more than 10 acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed. 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.
 - c. For disturbed areas less than ten (10) acres sedimentation basins are encouraged, but not required. 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, rock check dams, etc. must be regularly inspected and maintained.
8. Sediment basins related to impervious surface area - Where a project's ultimate development replaces surface vegetation with one or more

cumulative acres of impervious surface, and all runoff has not been accounted for in a City's existing stormwater management plan or practice, runoff from the 2 ½-inch 24-hour storm event shall be treated.

9. Silt fence – Silt fence shall be properly installed by being trenched and buried at least six inches into the soil. Generally, sufficient silt fence will be required to contain sheet flow runoff generated at an individual site.
10. Stockpile protections - 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 perimeter control devices such as silt fence. If for any reason a soil stockpile is located closer than twenty-five (25) feet from a road, drainage channel or stormwater inlet, it must be controlled with perimeter control devices immediately.
11. Vehicle entrances - Temporary rock construction entrances must be installed and maintained wherever vehicles enter and exit a site. The design of this entrance shall take into consideration the amount of traffic that will be entering and exiting the site. Construction entrances shall be stabilized with 1-1/2" – 3" clear aggregate or an approved equal. On sites with high traffic, the City may require wash racks, wash ponds or other means of minimizing sediment leaving the site.
12. Street cleaning - Streets shall be cleaned and swept by the conclusion of each day or as directed by the City and before sites are left idle for weekends and holidays. If street sweeping is not being completed as described the City shall have the right to complete the sweeping and bill all associated costs back to the owner.
13. Dewatering treatment required – Sediment laden water that is being removed from the site by pumping or trenching shall be treated to remove a minimum of 80 percent removal of suspended solids before discharge. Water may not be discharged in a manner that causes erosion to receiving channels or flooding of the discharge site.
14. Storm drain protection - All storm drain inlets shall be protected during construction with control measures as approved by the City. These devices shall remain in place until final stabilization of the site. A regular inspection and maintenance plan shall be developed and implemented to assure these devices are operational at all times. Storm drain protection devices along with all erosion control measures shall be inspected by the developer or his assignees a rainfall.

- D. Applicant inspections and maintenance - The applicant shall be responsible for inspections and maintenance on the site.
1. Inspections and maintenance must be documented and readily available for review. Inspections are required as follows:
 - a. Once every 7 days on exposed soil areas.
 - b. Within 24 hours after a one half inch rain event over 24 hours.
 - c. Once every 30 days on stabilized areas.
 - d. As soon as runoff occurs or prior to resuming construction on frozen ground.
 2. Maintenance is required as follows:
 - a. When sediment reaches 1/3 the height of the BMP on perimeter control devices, sediment must be removed within 24 hours.
 - b. If the perimeter control device is not functional it must be repaired or replaced within 24 hours.
 - c. Temporary sediment basins shall be maintained when sediment reaches 1/2 the outlet height or 1/2 the basin storage volume. Basin must be drained or sediment removed within 72 hours.
 - d. Construction site vehicle entrance and exit locations sediment must be removed from paved surfaces within 24 hours of discovery.
- E. Review – The City shall complete a review the SWPPP concurrent with the grading and erosion control plan from the developer.
1. Permit Required - Prior to commencement of any work, written documentation of approval of the SWPPP must be gained.
 2. Denial - If the City of Little Canada determines that the SWPPP does not meet the requirements of this ordinance, the City shall not issue a permit for the land disturbance activity. The SWPPP must be resubmitted for approval before the land disturbance activity begins. All land use and building permits shall be suspended until the developer has an approved Stormwater Pollution Prevention Plan.
 3. City inspections and enforcement - The City of Little Canada shall conduct inspections 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 builder or developer to maintain

proper erosion and sediment control at all sites. A charge will be assessed for any inspections pursuant to fees approved by the fee schedule annually adopted by the City Council that are necessary. In cases where cooperation is withheld, construction stop work orders shall be issued by the City, until erosion and sediment control measures meet the requirements of this ordinance. An inspection must follow before work can commence. Inspections are required as follows:

- a. For residential construction, at the time of footing inspections
- b. At the completion of the project
- c. Prior to the release of financial securities

F. **Modification of Plan.** The applicant must amend the SWPPP as necessary to include additional requirements such as additional or modified BMPs designed to correct problems identified or address situations whenever:

1. A change in design, construction, operation, maintenance, weather, or seasonal conditions that has a significant effect on the discharge of pollutants to surface waters or underground waters.
2. Inspections indicate the SWPPP is not effective in eliminating or significantly minimizing the discharge of pollutants to surface waters or underground waters or that the discharges are causing water quality standard exceedances.
3. The SWPPP is not achieving the general objectives of controlling pollutants or is not consistent with the terms and conditions of this permit.

G. **Variance Requests.** The City may grant a variance 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 City shall respond to the variance request in writing and include the justification for granting or denying the request.
 - a. **Financial Securities.** If financial security is not required by development agreement, then the applicant shall provide security for the performance of the work described and delineated on the approved Stormwater Pollution Prevention Plan and related

remedial work. The amount shall be defined in the City of Little Canada Fee Schedule.

This security shall save the City of Little Canada free and harmless from all suits or claims for damages resulting from the negligent grading, removal, placement or storage of rock, sand, gravel, soil or other like material within the city.

- H. **Maintaining the Financial Security.** If at anytime during the course of the work this amount falls below 50% of the required deposit, the City may require the developer to make another deposit in the amount necessary to restore the cash deposit to the required amount. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the City that the amount has fallen below 50% of the required amount the City may:
1. **Withhold inspections -** Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 2. **Revocation of permits -** Revoke any permit issued by the City of Little Canada to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
- I. **Action Against the Financial Security.** The City may access financial security for remediation actions if any of the conditions listed below exist. The City of Little Canada shall use the 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 cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.
1. **Abandonment -** The developer ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
 2. **Failure to implement SWPPP -** The developer fails to conform to the grading plan and/or the SWPPP as approved by the City of Little Canada.
 3. **Failure to perform -** The techniques utilized under the SWPPP fail within one year of installation.
 4. **Failure to reimburse City -** The developer fails to reimburse the City of Little Canada for corrective action taken.
- J. **Emergency Action.** If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City of Little Canada, the City may take emergency preventative action. Any cost to the City may be recovered from the applicant's financial security.

- K. Returning the Financial Security. The security deposited with the City for faithful performance of the SWPPP and any related remedial work shall be released one full year after the completion of the installation of all stormwater pollution control measures as shown on the grading and/or the SWPPP and vegetation has been established on the entire site. No interest shall accrue or be paid to the applicant.
- L. Notification of Failure of the SWPPP. The City shall notify the permit holder of the failure of the SWPPP's measures.
1. Initial contact. The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, 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. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish contact, the City may proceed with corrective work. There are conditions when time is of the essence in controlling erosion. During such a condition the City may take immediate action, and then notify the applicant as soon as possible.
 2. Erosion off-site. If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required. When restoration to wetlands and other resources are required, the applicant should be required to work with the appropriate agency to ensure that the work is done properly.
 3. 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, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

927.040. FAILURE TO DO CORRECTIVE WORK.

- A. 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.

- a. Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a Certificate of Occupancy.
- b. Revoke any approval granted by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
- c. Correct the deficiency or hire a contractor to correct the deficiency. The approval of the plan 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.
- d. Require reimbursement to the City for all costs incurred in correcting stormwater pollution control deficiencies. 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 G above.
- e. If there is an insufficient financial amount in the applicant's financial securities as described in Section G above 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.

927.050. ENFORCEMENT.

- A. The City or its designee shall be responsible for enforcing this ordinance.
 1. This Ordinance shall be administered and enforced by the Zoning Administrator who is appointed by the City Council. This Zoning Administrator may institute in the name of the City of Little Canada any appropriate actions or proceedings against a violator as provided by statute, charter, or ordinance.
 2. The City Administrator or designee (including, but not limited to a Code Enforcement Officer, Zoning Administrator, Sheriff, or other person) may issue a citation for violation of any of the provisions of this Ordinance. Any person who violates any of the provisions of this Ordinance shall be guilty, upon conviction, of a misdemeanor and shall be fined not more than the maximum penalty for a misdemeanor prescribed under state law. Each day that a violation is permitted to exist shall constitute a separate offense.

927.060. RIGHT OF ENTRY AND INSPECTION.

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

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
4. Inspect the storm water pollution control measures.
5. Sample and monitor any items or activities pertaining to storm water pollution control measures.

927.070. ABROGATION AND GREATER RESTRICTIONS.

- A. It is not intended to repeal, abrogate, or impair any existing easements, covenants, other State, Federal, or other applicable agencies regulations, 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.

927.080. SEVERABILITY

- A. The provisions of this ordinance are severable, and if any provision 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.

APPENDIX A—GENERAL

A. GENERAL REQUIREMENTS

All requirements in this Appendix are in addition to **BMPs** already specified in the ordinance. Where provisions of Appendix A conflict with requirements elsewhere in the ordinance, the provisions in Appendix A take precedence. All **BMPs** used to comply with this Appendix must be documented in the **SWPPP** for the project.

B. REQUIREMENTS FOR DISCHARGING TO WETLANDS

If the project has any **storm water** discharges with the potential for significant adverse impacts to a **wetland** (e.g., conversion of a natural **wetland** to a **storm water** pond), the **Permittee(s)** must demonstrate that the **wetland** mitigative sequence has been followed in accordance with D.1 or D.2 of this appendix.

1. If the potential adverse impacts to a **wetland** on a specific project site have been addressed by permits or other approvals from an official statewide program (U.S. Army Corps of Engineers 404 program, Minnesota Department of Natural Resources, or the State of Minnesota Wetland Conservation Act) that are issued specifically for the project and project site, the **Permittee** may use the permit or other determination issued by these agencies to show that the potential adverse impacts have been addressed. For the purposes of this permit, de minimus actions are determinations by the permitting agency that address the project impacts, whereas a non-jurisdictional determination does not address project impacts.
2. If there are impacts from the project that are not addressed in one of the permits or other determinations discussed in Appendix A, Part D.1 (e.g., permanent inundation or flooding of the **wetland**, significant degradation of water quality, excavation, filling, draining), the **Permittee** must minimize all adverse impacts to **wetlands** by utilizing appropriate measures. Measures used must be based on the nature of the **wetland**, its vegetative community types and the established hydrology. These measures include in order of preference:
 - a. Avoid all significant adverse impacts to **wetlands** from the project and post project discharge.
 - b. Minimize any unavoidable impacts from the project and post project discharge.
 - c. Provide compensatory mitigation when the **Permittee** determines that there is no reasonable and practicable alternative to having a significant adverse impact on a **wetland**. For compensatory mitigation, wetland restoration or creation shall be of the same type, size and whenever reasonable and practicable in the same watershed as the impacted wetland.

E. DISCHARGES REQUIRING ENVIRONMENTAL REVIEW

This permit does not replace or satisfy any environmental review requirements, including those under the Minnesota Environmental Policy Act (MEPA) or the National Environmental Policy Act (NEPA). The **owner** must complete any environmental review required by law, including any required Environmental Assessment Work Sheets or Environmental Impact Statements, Federal environmental review, or other required review.

F. DISCHARGES AFFECTING ENDANGERED OR THREATENED SPECIES

This permit does not replace or satisfy any review requirements for Endangered or Threatened species, from new or **expanded discharges** that adversely impact or contribute to adverse impacts on a listed endangered or threatened species or adversely modify a designated critical habitat. The **owner** must conduct any required review and coordinate with appropriate agencies for any project with the potential of affecting threatened or endangered species, or their critical habitat.

G. DISCHARGES AFFECTING HISTORIC PLACES OR ARCHEOLOGICAL SITES

This permit does not replace or satisfy any review requirements for Historic Places or Archeological Sites, from new or **expanded discharges** which adversely affect properties listed or eligible for listing in the National Register of Historic Places or affecting known or discovered Archeological Sites. The **owner** must be in compliance with National Historic Preservation Act and conduct all required review and coordination related to historic preservation, including significant anthropological sites and any burial sites, with the Minnesota Historic Preservation Officer.

APPENDIX B. DEFINITIONS

1. "**Applicant**" 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**.
2. "**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**, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Individual **BMPs** found in this permit are described in the current version of **Protecting Water Quality in Urban Areas**, Minnesota Pollution Control Agency 2000. **BMPs** must be adapted to the site and can be adopted from other sources. However, they must be similar in purpose and at least as effective and stringent as MPCA's **BMPs**. (Other sources include manufacturers specifications, **Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices**, U.S. Environmental Protection Agency 1992, and **Erosion Control Design Manual**, Minnesota Department of Transportation, et al, 1993).

3. "**Commissioner**" means the **Commissioner** of the Minnesota Pollution Control Agency or the **Commissioner's** designee.
4. "**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.
5. "**Construction Activity**" For this permit, **construction activity** includes **construction activity** as defined in 40 C.F.R. part 122.26(b)(14)(x) and **small construction activity** as defined in 40 C.F.R. part 122.26(b)(15). This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated **storm water** runoff, leading to soil erosion and movement of sediment into **surface waters** or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. **Construction activity** includes the disturbance of less than one acre of total land area that is a part of a larger **common plan of development or sale** if the larger common plan will ultimately disturb one (1) acre or more.
6. "**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.
7. "**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.

8. **“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.
9. **"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 70% 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;
 - 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**. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to **final stabilization** as quick as possible to keep mud out of their homes and off sidewalks and driveways.); 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. Areas disturbed 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 (a) or (b) above.
10. **"General Contractor"** means the party who signs the construction contract with the **applicant** 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 **applicant**. In some cases, the **applicant** may be the **general contractor**. In these cases, the **applicant** may contract an individual as the **operator** who would become the Co-Permittee.
11. **“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**.
12. **"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, or gravel roads.
13. **"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..

14. "**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 once every year.
15. "**Notice of Termination**" means notice to terminate coverage under this permit 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 permit. **Notice of Termination** forms are available from the MPCA.
16. "**Operator**" means the person (usually the **general contractor**), designated by the **applicant**, 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, (Part II.B. and Part IV.) and must perform those responsibilities in a workmanlike manner.
17. "**Permanent Cover**" means **final stabilization**. Examples include grass, gravel, asphalt, and concrete.
18. "**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.
19. "**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.
20. "**Sediment Control**" means methods employed to prevent sediment from leaving the site. **Sediment control** practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.
21. "**Small Construction Activity**" means small construction activity as defined in 40 C.F.R. part 122.26(b)(15) . Small construction activities include clearing, grading and excavating that result in land disturbance of equal to or greater than one 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 five (5) acres.
22. "**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.
23. "**Standard Plates**" means general drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.
24. "**Storm water**" is defined under Minn. R. 7077.0105, subp. 41(b), and includes precipitation runoff, **storm water** runoff, snow melt runoff, and any other surface runoff and drainage.

25. “**Storm Water Pollution Prevention Plan**” means a plan for **storm water** 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.
26. “**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.
27. “**Temporary Erosion Protection**” means methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.
28. “**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.
29. “**Waters of the State**” (as defined in Minn. Stat. § 115.01, subd. 22) 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.
30. “**Water Quality Volume**” means 2 ½ inches of runoff from the new **impervious surfaces** created by this project and is the volume of water to be treated in the permanent **storm water** management system, as required by this permit except as provided in Appendix A.C.2.
31. “**Wetland**” or “**Wetlands**” is defined in Minn. R. 7050.0130, subp. F and 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.

(Source: Ord. 655)