

**CITY OF TONKA BAY  
ITEM NO. 7A**

# Memo

**To:** Honorable Mayor and City Council  
**From:** Joe Kohlmann, City Administrator  
**Date:** April 24, 2012  
**Re:** Repeal Ordinance Section 1080 *General Storm Water Management Ordinance* and enact Section 1080 *Model Illicit Discharge and Connection Ordinance*

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Staff was contacted by the MPCA concerning our Storm Water Management's compliance with the current MS4 permit requirements. In their opinion, our Storm Water Management ordinance did not "provide the City with regulatory authority to prohibit illicit discharges and/or non-stormwater discharges from entering the City's MS4".

Due to the 2012 MS4 Requirements that are out for Public Comment, they recommended the City adopt one of their 'model ordinances' to ensure compliance with the upcoming permit changes.

The City Engineer, City Planner, City Attorney and City Administrator have all reviewed the *attached ordinance*.

Since the upcoming (2012) MS4 permit requirements are still out for Public Comment, it is difficult to determine all of the impacts the permit requirements will have on the City.

In order to provide an idea of the differences between the existing and proposed ordinances, following are the "Purpose/Intent" sections of each:

**Existing:** The purpose of this ordinance is to promote, preserve and enhance the natural resources within the City of Tonka Bay 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 such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

**Proposed:** The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Tonka Bay through the regulation of non-storm water discharges to the storm drainage system

to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- a. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
- b. To prohibit illicit connections and discharges to the MS4.
- c. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

Other notable additions to the proposed ordinance:

- 1) Permits Right of Entry to City
- 2) Prohibits everything but stormwater from entering MS4
- 3) Enables the City to monitor compliance
- 4) City can issue Violations
  - a. Cease and desist
  - b. Order restoration of affected lands
  - c. Fines to cover administrative costs
  - d. Require implementation of BMPs
  - e. Require attendance to compliance workshops
  - f. Creek cleanup
  - g. City can abate violations

In short, the proposed ordinance has more “teeth” for enforcement and monitoring illicit discharges and connections into the MS4. The existing ordinance focused more on plan reviews.

*Attached are Resolutions for summary publication and repealing/enacting new ordinance*

*Attached is an email from the MPCA requiring the changes for current MS4 permit*

*Attached is the proposed Ordinance- Illicit Discharge and Connection Ordinance*

*Attached is the existing Ordinance- General Storm Water Management Ordinance*

**Council Action Requested:**

This is a first reading and no action is required at this time but to discuss the existing and proposed ordinances. .

**RESOLUTION 12-**

**A RESOLUTION AUTHORIZING SUMMARY PUBLICATION OF AN ORDINANCE  
OF THE CITY OF TONKA BAY, MINNESOTA**

WHEREAS, the City Council determines that publication of the summary of Ordinance 2012-1 entitled "An Ordinance Repealing Section 1080, General Storm water Management Ordinance and Replacing it with Section 1080, Model Illicit Discharge and Connection Ordinance", as attached, will clearly inform the public of the intent and effect of the ordinance; and

WHEREAS, state statutes allow the council to direct staff by a four-fifths vote that only the title of the ordinance and a summary be published;

WHEREAS, a copy of the entire text shall be posted in the Excelsior branch of the Hennepin County Library system; and

WHEREAS, the City Council approves the title and summary as attached and determines that the text clearly informs the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Tonka Bay, Hennepin County, Minnesota, that the summary publication as attached shall be published for Ordinance 2012-1 entitled "An Ordinance Repealing Section 1080, General Storm water Management Ordinance and Replacing it with Section 1080, Model Illicit Discharge and Connection Ordinance"

BE IT FURTHER RESOLVED, that only the title and summary of the ordinance be published.

BE IT FURTHER RESOLVED, that the text of the summary is hereby approved.

PASSED at a regular meeting of the Tonka Bay City Council this 8th day of May, 2012.

Motion introduced by Marceau and seconded by Holscher.

Roll call vote:

Ayes:

Abstaining:

Nays:

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William LaBelle, Mayor

ATTEST:

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Joseph Kohlmann, Clerk Administrator

**ORDINANCE NO. 2012-1  
CITY OF TONKA BAY**

**AN ORDINANCE REPEALING  
SECTION 1080, GENERAL STORM WATER MANAGEMENT ORDINANCE  
AND REPLACING IT WITH  
SECTION 1080, MODEL ILLICIT DISCHARGE  
AND CONNECTION ORDINANCE**

The City Council of the City of Tonka Bay does ordain as follows:

**Summary:**

The ordinance repeals Section 1080, General Storm Water Management Ordinance and replaces it with Section 1080, Model Illicit Discharge and Connection Ordinance.

**Effective Date:**

The ordinance shall become effective upon its publication in the legal newspaper.

This published material is only a summary. The full text of the ordinance is available for review at Tonka Bay City Call, 4901 Manitou Road, Tonka Bay MN 55331.

\_\_\_\_\_  
William LaBelle, Mayor

Attest:

\_\_\_\_\_  
Joseph Kohlmann, Clerk/Administrator

First Reading: April 24, 2012  
Second Reading: May 8, 2012  
Publication: May 17, 2012

**Joe Kohlmann**

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**From:** Fox, Scott (MPCA) [Scott.Fox@state.mn.us]  
**Sent:** Tuesday, November 08, 2011 2:32 PM  
**To:** Joe Kohlmann  
**Cc:** Greg Kluver  
**Subject:** RE: MPCA Review of the City of Tonka Bay 2010 MS4 Annual Report  
**Follow Up Flag:** Follow up  
**Flag Status:** Red

Mr. Kohlmann,

Attached is the e-mail that I sent to Greg Kluver back on October 21, 2011. As we discussed the MS4 Permit requirement for permittees to have an effective regulatory mechanism to prohibit illicit stormwater discharges is contained within the current MS4 permit. I would appreciate if either you or Greg could give me a call next week to discuss the City's schedule to develop an ordinance to address this MS4 Permit requirement.

Scott J. Fox  
Hydrologist 3  
Stormwater Section  
Municipal Division  
(651) 757-2368 fax (651) 297-8683

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**From:** Fox, Scott (MPCA)  
**Sent:** Friday, October 21, 2011 10:12 AM  
**To:** 'gkluver@cityoftonkabay.net'  
**Subject:** MPCA Review of the City of Tonka Bay 2010 MS4 Annual Report

Mr. Kluver,

At this time I have completed a review of the City of Tonka Bay 2010 MS4 Annual Report. MCM 3, item F of the annual report identifies Section 1080, General Stormwater Management Ordinance, as providing the City's regulatory authority to prohibit illicit discharges and/or non-stormwater discharges from entering the City's MS4. I have reviewed Section 1080 and did not identify any language which provided the City with this authority. The MS4 Permit required the City to have any effective regulatory mechanism in place by June 30, 2010. To address this situation the City must develop a schedule which includes specific tasks to develop these authorities and get the City back into compliance with the MS4 Permit requirement concerning an effective illicit discharge ordinance. This schedule should be submitted to the MPCA by November 4, 2011.

The following web sites provide model illicit discharge ordinances which may be useful to the City. These include the EPA site: [http://www.epa.gov/npdes/pubs/idde\\_appendix-b.pdf](http://www.epa.gov/npdes/pubs/idde_appendix-b.pdf) Center for Watershed Protection: <http://www.cwp.org/store/free-downloads.html> and Stormwater Center.net: <http://www.stormwatercenter.net/>.

4/20/2012

Feel free to contact me if you have any questions.

Scott J. Fox  
Hydrologist 3  
Stormwater Section  
Municipal Division  
(651) 757-2368 fax (651) 297-8683

**ORDINANCE NO. 2012-1  
CITY OF TONKA BAY**

**AN ORDINANCE TO REPEAL SECTION 1080,  
GENERAL STORM WATER MANAGEMENT ORDINANCE  
AND REPLACING IT WITH  
SECTION 1080, MODEL ILLICIT DISCHARGE  
AND CONNECTION ORDINANCE**

**THE CITY COUNCIL OF THE CITY OF THE CITY OF TONKA BAY,  
HENNEPIN COUNTY, MINNESOTA DOES HEREBY ORDAIN:**

Section 1080, General Storm Water Management Ordinance, adopted July 24, 2003 is hereby repealed and replaced in its entirety.

**A new Section 1080 shall read as follows:**

**SECTION 1080.1            PURPOSE/INTENT**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Tonka Bay through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- a. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
- b. To prohibit illicit connections and discharges to the MS4.
- c. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance

**SECTION 1080.2            DEFINITIONS**

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency. Employees or designees of the City Administrator.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management

practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 1080.8, Subd. 1.a of this ordinance.

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

- a. Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process waste water, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- b. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Tonka Bay and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. Means a permit issued by EPA or the State of Minnesota [pursuant to 33 USC SS 1342 (b)] that authorizes the discharge of pollutants to

waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

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

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Water Management Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **SECTION 1080.3                    APPLICABILITY**

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City of Tonka Bay.

**SECTION 1080.4                      RESPONSIBILITY FOR ADMINISTRATION**

The City of Tonka Bay shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City of Tonka Bay may be delegated in writing by the City Administrator of the City of Tonka Bay to persons or entities acting in the beneficial interest of or in the employ of the agency.

**SECTION 1080.5                      COMPATIBILITY WITH OTHER REGULATIONS**

This ordinance is not intended to modify or repeal any other rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**SECTION 1080.6                      SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

**SECTION 1080.7                      ULTIMATE RESPONSIBILITY**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

**SECTION 1080.8                      DISCHARGE PROHIBITIONS**

Subd. 1            Prohibition of Illegal Discharges

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited excepted as described as follows:

- a. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration,

- uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water;
- b. Discharges or flow from firefighting and other discharges specified in writing by the City of Tonka Bay as being necessary to protect public health and safety;
  - c. Discharges associated with dye testing, however, this activity requires a verbal notification to the City of Tonka Bay prior to the time of the test;
  - d. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

#### Subd. 2 Prohibition of Illicit Connections

- a. The construction, use, maintenance or continued existence of illicit connections to the storm water drain system is prohibited;
- b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection;
- c. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue;
- d. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved on site wastewater management system or the sanitary sewer system upon approval of the City of Tonka Bay.
- e. Any drain or conveyance that has not been document in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City of Tonka Bay requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City of Tonka Bay.

### **SECTION 1080.9 WATERCOURSE PROTECTION**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive, vegetation, and other obstacles that

would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**SECTION 1080.10                    INDUSTRIAL OR CONSTRUCTION ACTIVITY  
DISCHARGES**

Submission of Notice of Intent (NOI) to City of Tonka Bay

- a. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Minnesota Pollution Control Agency prior to the allowing of discharges to the MS4.
- b. The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the NOI to the City of Tonka Bay at the same time the operator submits the original Notice of Intent to the MPCA as applicable.
- c. The copy of the Notice of Intent may be delivered to the City of Tonka Bay either in person or by mailing it to:  
    Notice of Intent to Discharge Storm Water  
    City of Tonka Bay  
    4901 Manitou Road  
    Tonka Bay MN 55331
- d. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the City of Tonka Bay.

**SECTION 1080.11                    COMPLIANCE MONITORING**

Subd. 1            Right of Entry: Inspection and Sampling  
The City of Tonka Bay and its authorized agents shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

- a. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of Tonka Bay and its authorized agents.
- b. Facility operators shall allow the City of Tonka Bay and its authorized agents ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

- c. The City of Tonka Bay and its authorized agents shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of Tonka Bay to conduct monitoring and/or sampling of the facility's storm water discharge.
- d. The City of Tonka Bay has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- e. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Tonka Bay and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- f. Unreasonable delays in allowing the City of Tonka Bay access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the City of Tonka Bay reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

Subd. 2. Search Warrants

If the City of Tonka Bay has been refused access to any part of the premises from which storm water is discharged, and they are able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Tonka Bay may seek issuance of a search warrant from any court of competent jurisdiction.

**SECTION 1080.12                      REQUIREMENT TO PREVENT, CONTROL, AND  
REDUCE STORM WATER POLLUTANTS BY THE  
USE OF BEST MANAGEMENT PRACTICES**

The City of Tonka Bay shall adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and

conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water management plan (SWMP) or Stormwater Pollution Prevention Plan (SWPPP) as submitted to the Minnesota Pollution Control Agency as necessary for compliance with requirements of the NPDES permit.

### **SECTION 1080.13 NOTIFICATION OF SPILLS**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of Tonka Bay and the Minnesota Pollution Control Agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Tonka Bay and the Minnesota Pollution Control Agency **within** 7 business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 3 years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

### **SECTION 1080.14 VIOLATIONS, ENFORCEMENT, AND PENALTIES**

#### **Subd. 1. Violations.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City of Tonka Bay is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City of Tonka Bay is authorized to seek costs of the abatement as outlined in Section 1080.17.

#### **Subd. 2. Warning Notice**

When the City of Tonka Bay finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the City of

Tonka Bay may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieve the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the City of Tonka Bay to take any action, including any emergency action or any other enforcement action, without first issuing a Warning Notice.

Subd. 3. Notice of Violation.

Whenever the City of Tonka Bay finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City of Tonka Bay may order compliance by written notice of violation to the responsible person.

- a. The Notice of Violation shall contain:
  1. The name and address of the alleged violator;
  2. The address when available or a description of the building, structure or land upon which the violation is occurring or has occurred;
  3. A statement specifying the nature of the violation;
  4. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
  5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
  6. A statement that the determination of violation may be appealed to the City of Tonka Bay by filing a written notice of appeal within 30 days of service of notice of violation; and
  7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- b. Such notice may require without limitation:
  1. The performance of monitoring, analyses and reporting;
  2. The elimination of illicit connections or discharges;
  3. That violating discharges, practices, or operations shall cease and desist;
  4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  5. Payment of a fine to cover administrative and remediation costs; and
  6. The implementation of source control or treatment BMPs.

Subd. 4. Compensatory Action.

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

Subd. 5. Suspension of MS4 Access.

a. Emergency Cease and Desist Orders –

When the City of Tonka Bay finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of person or to the environment, the City of Tonka Bay may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

1. Immediately comply with all ordinance requirements; and
2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City of Tonka Bay may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The City of Tonka Bay may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City of Tonka Bay that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City of Tonka Bay within 7 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

- b. Suspension due to Illicit Discharges in Emergency Situations – The City of Tonka Bay may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City of Tonka Bay may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

- c. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Tonka Bay will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of Tonka Bay for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City of Tonka Bay.

Subd. 6. Civil Penalties.

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 7 days, or such greater period as the City of Tonka Bay shall deem appropriate, after the City of Tonka Bay has taken one or more of the actions described above, the City of Tonka Bay may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

Subd. 7. Criminal Prosecution.

An person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$1,000 and/or imprisonment for a period of time not to exceed 90 days. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

#### **SECTION 1080.15 APPEAL OF NOTICE OF VIOLATION**

Any person receiving a Notice of Violation may appeal the determination of the City of Tonka Bay. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or their designee shall take place within 60 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

#### **SECTION 1080.16 ENFORCEMENT MEASURES AFTER APPEAL**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or in the event of an appeal within 30 days of the decision of the municipal authority upholding the decision of the City of Tonka Bay then representatives of the City of Tonka Bay shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

#### **SECTION 1080.17 COST OF ABATEMENT OF THE VIOLATION**

Within 60 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written appeal objecting to the amount of the assessment within 30 days after mailing of the above notification. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The lien shall be paid in not more than 2 equal payments. Interest at the rate of 8% percent per annum shall be assessed on the balance beginning on the 11<sup>th</sup> day following discovery of the violation.

**SECTION 1080.18 VIOLATIONS DEEMED A PUBLIC NUISANCE**

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

**SECTION 1080.19 REMEDIES NOT EXCLUSIVE**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the City of Tonka Bay to seek cumulative remedies.

The City of Tonka Bay may recover all attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**SECTION 1080.20 ADOPTION OF ORDINANCE**

This ordinance shall become effective upon its adoption by the City Council and its publication in the city's official newspaper. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

\_\_\_\_\_  
William LaBelle, Mayor

Attest:

\_\_\_\_\_  
Joseph Kohlmann, Clerk/Administrator

## **SECTION 1080 - GENERAL STORM WATER MANAGEMENT ORDINANCE**

### **SECTION 1080.01 - STATUTORY AUTHORIZATION.**

The stormwater management regulations contained in this Section are adopted pursuant to Minnesota Statutes Section 462.351.

### **SECTION 1080.02 - FINDINGS.**

The City of Tonka Bay 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 Tonka Bay 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 such areas and in areas which may be affected by unplanned land usage.

### **SECTION 1080.03 - PURPOSE.**

The purpose of this ordinance is to promote, preserve and enhance the natural resources within the City of Tonka Bay 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 such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

### **SECTION 1080.04 - SCOPE AND EFFECT.**

**Subd. 1 - 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 City. 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 variance of the approval requirement has been obtained in strict conformance with the provisions of this ordinance.

**Subd. 2 - Exemptions.** The provisions of this ordinance do not apply to:

- A. 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 ordinance;

- B. Any land disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this ordinance;
- C. A lot for which a building permit has been approved on or before the effective date of this ordinance;
- D. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;
- E. Interior remodeling;
- F. Any activity requiring a building permit which does not disturb any land and does not increase the area of impervious surface of the subject parcel;
- G. Replacement in size of impervious surfaces, such as driveways, sidewalks, patios, etc.; or
- H. Emergency work to protect life, limb, or property.
- I. A proposed addition or the construction of an accessory structure when the plans have been reviewed and the site has been inspected by the Zoning Administrator and/or the City Engineer and it has been determined that the land is flat and/or drainage will not have an impact on neighboring property(s) or any body of water.

**Subd. 3 - Variance.** The City Council, upon recommendation of the Planning Commission, may grant a variance to any requirement of this ordinance upon making a finding that compliance with the requirement will involve an unnecessary hardship and the variance of such requirement will not adversely affect the standards and requirements set forth in Section 1083.20. The City Council of Tonka Bay may require as a condition of the variance, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements.

## **SECTION 1080.05 - STORM WATER MANAGEMENT PLAN APPROVAL PROCEDURES**

**Subd. 1 - Application.** A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the City 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 ordinance.

Four sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the Zoning Administrator. Drawings shall be prepared to a scale

appropriate to the site of the project and suitable for the review to be performed. At a minimum the scale shall be 1 inch equals 100 feet.

**Subd. 2 - Storm Water Management Plan.** At a minimum, the Storm Water Management Plan shall contain the following information.

- A. Existing site map. A map of existing site conditions showing the site and immediately adjacent areas, including:
- (1) The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;
  - (2) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;
  - (3) 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;
  - (4) A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers.
  - (5) Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction 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;
  - (6) 100-year floodplains, flood fringes and floodways.
- B. Site construction plan. A site construction plan including:
- (1) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
  - (2) Locations and dimensions of all temporary soil or dirt stockpiles;
  - (3) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this ordinance;

- (4) 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 ordinance; and
  - (5) Provisions for maintenance of the construction site erosion control measures during construction.
- C. 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:
- (1) 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;
  - (2) 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;
  - (3) The proposed size, alignment and intended use of any structures to be erected on the site;
  - (4) 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
  - (5) Any other information pertinent to the particular project which in the opinion of the Zoning Administrator is necessary for the review of the project.

## **SECTION 1080.06 - PLAN REVIEW PROCEDURE**

**Subd 1. - Process.** Storm water management plans meeting the requirements of Section 1080.05, Subd. 2 shall be submitted to the Zoning Administrator for review in accordance with the standards of Section 1080.07. The Zoning Administrator shall approve, approve with conditions, or deny the storm water management plan.

**Subd. 2 - Duration.** Approval of a plan submitted under the provisions of this ordinance shall expire one 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 Zoning Administrator for an extension of time to commence construction setting forth the reasons for the requested extension, the Zoning Administrator may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the Zoning Administrator within 15 days. The Zoning Administrator shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

**Subd. 3 - 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 ordinance are met. Such 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 replacement 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 Tonka Bay or other public entity of certain lands or interests therein.

**Subd. 4 - Financial Guarantee.** Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a financial guarantee to cover the amount of the established cost of complying with the agreement. The agreement and guarantee shall insure completion and compliance with conditions within a specific time, which may be extended in accordance with Section 1080.06, Subd. 2.

**Subd. 5 - Fees and Escrow.** All applications for storm water management plan approval shall be accompanied by a processing fee of \$50.00 and cash escrow in accordance with the following schedule:

<b>LOT SIZE</b>	<b>AMOUNT OF CASH ESCROW</b>
10,000 S.F. or Less	\$ 200.00
10,001 S.F. to 1 Acre	\$ 400.00
Over 1 Acre	\$ 700.00

The City Council may change, amend or revise the processing fee and escrow amounts from time to time by Resolution of the Council.

## **SECTION 1080.07 - APPROVAL STANDARDS**

**Subd. 1 -** No storm water management plan which fails to meet the standards contained in this section shall be approved by the Zoning Administrator.

**Subd. 2 - Site De-watering.** 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.

**Subd. 3 - Water 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 by runoff into a receiving channel or storm sewer system.

**Subd. 4 - Tracking.** Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

**Subd. 5 - 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 contained in the MPCA publication "Protecting Water Quality in Urban Areas."

**Subd. 6 - Site Erosion Control.** The following criteria (A through D) apply only to construction activities that result in runoff leaving the site.

- A. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff rates of less than 0.5 ft.<sup>3</sup>/sec. across the disturbed area for the one year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
- B. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
- C. Runoff from the entire disturbed area on the site shall be controlled by meeting either subsections (1) and (2) or (1) and (3).
  - (1) All disturbed ground left inactive for fourteen or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.
  - (2) For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
  - (3) For sites with less than ten acres disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control

measures must include a maintenance and inspection schedule.

- D. Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

**Subd. 7 - Storm Water Management Criteria for Permanent Facilities.**

- A. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two-year, ten-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. At the discretion of the City, an applicant may also make an in-kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
- B. The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.
- C. Special attention shall be given to existing residential developments which do not currently comply with the 35% impervious cover limitation of Tonka Bay's shoreland management ordinance. When installing sidewalk and driveways, adding decks and building additions or constructing garages and storage buildings, the following methods are suggested as solutions to the problem of managing stormwater runoff from impervious surfaces:
  - (1) Building additions and decks shall be constructed to direct runoff to more pervious grassed filter strips, such as lawns and gardens.
  - (2) Runoff from garages or storage buildings can be separated from impervious surfaces by different roof designs and/or use of gutters

and downspouts directing water to pervious areas.

- (3) Sidewalks and driveways shall be sloped to drain towards pervious surfaces, such as lawns or gardens.
- D. The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:
- (1) Natural infiltration of precipitation on-site;
  - (2) Flow attenuation by use of open vegetated swales and natural depressions;
  - (3) Storm water retention facilities; and
  - (4) Storm water detention facilities.
- E. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection A above. Justification shall be provided by the applicant for the method selected.

**Subd. 8 - Design Standards.** Storm water detention facilities constructed in the City of Tonka Bay shall be designed according to the most current technology as reflected in the MPCA publication "Protecting Water Quality in Urban Areas", and shall contain, at a minimum, the following design factors:

- A. A permanent pond surface area equal to two percent of the impervious area draining to the pond or one percent of the entire area draining to the pond, whichever amount is greater;
- B. An average permanent pool depth of four to ten feet;
- C. A permanent pool length-to-width ratio of 3:1 or greater;
- D. A minimum protective shelf extending ten feet into the permanent pool with a slope of **10:1**, beyond which slopes should not exceed 3:1;
- E. A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod;
- F. All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;
- G. Storm water detention facilities for new development must be sufficient to limit peak flows in each subwatershed to those that existed before the

development for the 10 year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water management plan;

- H. All storm water detention facilities must have a forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin.

**Subd. 9 - Wetlands.**

- A. Runoff shall not be discharged directly into wetlands without presettlement of the runoff.
- B. A protective buffer strip of natural vegetation at least one rod (**16.5 feet**) in width shall surround all wetlands.
- C. Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public and natural value. Replacement must be guided by the following principles in descending order of priority:
  - (1) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
  - (2) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
  - (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
  - (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
  - (5) Compensating for the impact by replacing or providing substitute wetland resources or environments.

**Subd. 10 - Bluffs.** No land disturbing or development activities shall be allowed on bluffs as defined under Definitions in Section 1070 of the Zoning Ordinance.

**Subd. 11 - Structures.** In a newly constructed or rehabilitated storm sewer system, the last downstream structure before discharge to a receiving water body shall be provided with a sump area for the collection of coarse-grained material. Such sumps shall be cleaned when they are half-filled with material.

**Subd. 12 - Drain Leaders.** All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.

**Subd. 13 - Inspection and Maintenance.** All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The Director of Public Works, or designated representative, shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter. The inspection records will be kept on file at the Public Works Department for a period of 6 years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.

**Subd. 14 - Models/Methodologies/Computations.** Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the City Engineer. Plans, specifications and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the City Engineer.

**Subd. 15 - Watershed Management Plans/Groundwater Management Plans.** Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes section 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.

**Subd. 16 - Easements.** If a storm water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

## **SECTION 1080.08 - LAWN FERTILIZER REGULATIONS**

**Subd. 1 - Use of Impervious Surfaces.** No person shall apply fertilizer to or deposit grass clippings, leaves or other vegetative materials on impervious surfaces, or within storm water drainage systems, natural drainageways, or within wetland buffer areas.

**Subd. 2 - Unimproved Land Areas.** Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved by landscaping, all areas shall be covered by plants or vegetative growth.

**Subd. 3 - Fertilizer Content.** Except for the first growing season for newly established turf area, no person shall apply liquid fertilizer which contains more than one-half percent by weight of phosphorus, or granular fertilizer which contains more than three percent by weight of phosphorus, unless the single application is less than or equal to one-tenth pound of phosphorus per one thousand square feet. Annual application amount shall not exceed one-half pound of phosphorus per one thousand square feet of lawn area.

**Subd. 4 - Buffer Zone.** Fertilizer applications shall not be made within one rod (16.5 feet) of any wetland or water resource.

