CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. 23-

AN ORDINANCE AMENDMENT REPEALING SECTIONS 153.470 - 153.480 AND ENACTING CHAPTER 154 OF THE CITY CODE REGARDING STORM WATER MANAGEMENT.

The City Council of West St. Paul does ordain:

SECTION 1. AMENDMENT. The West St. Paul City Code Sections § 153.470 through § 153.480 is hereby repealed.

SECTION 2. AMENDMENT. West St. Paul City Code Chapter 154 is hereby enacted as follows:

~~§153.470~~ 154.01 POLICY.

(A) The purpose of this subchapter is to control or eliminate stormwater pollution along with soil erosion and sedimentation within the city.

(B) It establishes standards and specifications for conservation practices and planning activities, which minimize stormwater pollution, soil erosion and sedimentation.

(C) Except where an exception 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 or stormwater pollution control plan.

(D) No land shall be disturbed until the plan is approved by the city and conforms to the standards set forth herein.

(Ord. passed 10-11-1963)

§154.02~~153.471~~ DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "must" are always mandatory and not merely directive.

ACTIVE KARST. Terrain having distinctive landforms and hydrology created primarily from the dissolution of soluble rocks within 50 feet of the land surface. ~~Geographic areas underlain by carbonate bedrock (or other forms of bedrock that can erode or dissolve) with less than 50 feet of sediment cover.~~

APPLICANT. Any person or entity that applies for a building permit, subdivision approval or a permit to allow land disturbing activities. ***APPLICANT*** also means that person's agents, employees and others acting under this person's direction.

BEST MANAGEMENT PRACTICES (BMP). Practices to prevent or reduce the pollution of the waters of the state, including schedules of activities, prohibitions of practices, and other management practices, and also includes treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

~~***BUFFER***. A protective vegetated zone located adjacent to a natural resource, such as a water of the state that is subject to direct or indirect human alteration. Acceptable ***BUFFER*** vegetation includes preserving existing predevelopment vegetation and/or planting locally distributed native Minnesota trees, shrubs and grassy vegetation. Alteration of those areas is strictly limited.~~

COMMON PLAN OF DEVELOPMENT OR SALE. A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

CONSTRUCTION ACTIVITY. Activities include clearing, grading, and excavating, that result in land disturbance of equal to or greater than ½ ~~one~~ acre, including the disturbance of less than ½ ~~one~~ 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 1/2 ~~one~~ acre. This includes a disturbance to the land that results in a change in the topography, existing soul cover, both vegetative and non-vegetative, or the existing soil topography that may result in accelerated stormwater runoff that may lead to soil erosion and movement of sediment. Construction activity does not include a disturbance to the land of less than five acres for the purpose of routine maintenance performed to maintain the original purpose of the facility. Routine maintenance does not include activities such as repairs, replacement and other types of non-routine maintenance. Pavement rehabilitation that does not disturb the underlying souls (e.g., mill and overlay projects) is not construction activity. ~~Includes construction activity as defined in 40 C.F.R. § 122.26(b)(14)(x) and small construction activity as defined in 40 C.F.R. § 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 stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. 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 acre or more.~~

DEVELOPER. A person, firm, corporation, sole proprietorship, partnership, state agency or political subdivision thereof engaged in a land disturbance activity.

DEWATERING. The removal of surface or ground water to dry and/or solidify a construction site to enable construction activity. ***DEWATERING*** may require a Minnesota Department of Natural Recourses water appropriation permit and, if dewatering water is contaminated, discharge of such water may require an individual MPCA NPDES/SDS permit.

DISCHARGE. The conveyance, channeling, runoff or drainage, of stormwater, including snowmelt, from a construction site.

DNR CATCHMENT AREA. The Hydrologic Unit 08 areas delineated and digitized by the Minnesota Department of Natural Resources ("DNR"). The catchment areas are available for

download at the Minnesota DNR website. DNR catchment areas may be locally corrected by the City, in which case the local corrections may be used.

~~***ENERGY DISSIPATION***. This refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to; aprons, riprap, splash pads and gabions that are designed to prevent erosion.~~

EROSION. Any process that wears away the surface of the land by the action of water, wind, ice or gravity. EROSION can be accelerated by the activities of people and nature.

EROSION PREVENTION~~CONTROL~~. Refers to methods employed to prevent erosion such as soil stabilization practices, permanent cover or construction phasing. ~~Examples include soil stabilization practices, limited grading, temporary erosion protection or permanent cover and construction phasing.~~

EROSION AND SEDIMENT PRACTICE SPECIFICATIONS OR PRACTICE. The management procedures, techniques and methods to control soil erosion and sedimentation as officially adopted by either the city, county or local watershed group, whichever is more stringent.

~~***EXPOSED SOIL AREAS***. All areas of the construction site where the vegetation (trees, shrubs, brush and the like) has been removed. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include stockpiles or surcharge areas of sand, gravel, concrete or bituminous.~~

~~***FILTER STRIPS***. A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.~~

FINAL STABILIZATION. Required actions as defined in the NPDES/SDS general stormwater permit for construction activity taken after the completion of construction activities and prior to submitting the notice of termination that are intended to prevent discharge of pollutants associated with stormwater discharges from the project.

FULLY RECONSTRUCTED. Areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and other pavement rehabilitation projects that do not expose the underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed. Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed.

GRADING PERMIT. A written warrant or license granted by the city to allow land disturbance activities.

~~***GREEN INFRASTRUCTURE***. A wide array of practices at multiple scales that manages wet weather and that maintains or restores natural hydrology by infiltrating, evapotranspiring or harvesting and using stormwater. On a regional scale, ***GREEN INFRASTRUCTURE*** is the preservation or restoration of natural landscape features such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On the local scale, ***GREEN INFRASTRUCTURE*** consists of site and neighborhood-specific practices, such as bioretention, trees, green roofs, permeable pavements and cisterns.~~

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

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

~~***IMPAIRED WATER***. All bodies of water that are listed on the Minnesota Pollution Control Agency's List of Impaired Waters.~~

IMPERVIOUS SURFACE.

(A) 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/or at an increased rate of flow than existed prior to development.

(B) Examples include rooftops, sidewalks, ~~patios,~~ driveways, parking lots, ~~storage areas~~ and concrete, asphalt or gravel roads. Bridges over surface waters are considered impervious surfaces.

LAND DISTURBANCE ACTIVITY.

(A) Any activity or activities on a site that may result in soil erosion from water or wind. It shall also mean any movement of sediments upon lands or into or upon waters within the city's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land.

(B) Within the context of this rule, ***LAND DISTURBANCE ACTIVITY*** does not mean:

(1) Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs and maintenance work;

(2) Construction, installation and maintenance of electric, telephone and cable television, utility lines or individual service connection to these utilities, which result in creating less than 5,000 square feet of exposed soil;

(3) Tilling, planting or harvesting of agricultural, horticultural or silvicultural crops;

(4) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles that result in creating less than 5,000 square feet of exposed soil;

(5) Emergency work to protect life, limb or property and emergency repairs, unless the land disturbing activity would have required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible; or

(6) Any activity that, in the discretion of the city, should be exempt from the provisions of this section. The city may exempt an activity from the provisions of this section if all of the following standards and requirements are met:

(a) Existing draining and ponding patterns are not significantly altered so as to adversely affect adjoining land;

(b) The resultant grade and slopes at the property line are in substantial conformity to the surrounding natural topography and are set so as to minimize erosion and provide for sufficient drainage so that both natural and stormwater enter and leave the property at the original or natural drainage points;

(c) All banks will be left with a slope not greater than one foot vertical to four foot horizontal, except that greater slope shall be permitted if it is in substantial conformity to the immediately surrounding area, and in the judgment of the city, it is not expected to adversely affect future development of the site. All excavated areas shall be finally graded in substantial conformity to the surrounding natural topography; and

(d) The property is or will be graded so that stagnant water will not be permitted to collect upon it.

LINEAR PROJECT. Construction of new or fully reconstructed roads, trails, sidewalks, or rail lines that are not part of a common plan of development or sale. For example, roads being constructed concurrently with a new ~~residential~~ development are not considered linear projects because they are part of a common plan of development or sale.

MAXIMUM EXTENT PRACTICABLE (***MEP)***. The statutory standard (33 U.S.C. § 1342(p)(3)(B)(iii)) that establishes the level of pollutant reductions that an owner or operator of regulated MS4s must achieve. The U.S. Environmental Protection Agency (USEPA) has intentionally not provided a precise definition of MEP to allow maximum flexibility in MS4 permitting. The pollutant reductions that represent ***MEP*** may be different for each small MS4, given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Therefore, each permittee will determine appropriate BMPs to satisfy each of the six minimum control measures (MCMs) through an evaluative process. The USEPA envisions application of the ***MEP*** standard as an iterative process.

MS4. Municipal Separate Storm Sewer System.

~~***NATURAL BUFFER***. An area of undisturbed cover surrounding surface waters within which construction activities are restricted. Natural buffer includes the vegetation, exposed rock or barren ground that exists prior to commencement of earth-disturbing activities.~~

NPDES/SDS GENERAL STORMWATER PERMIT FOR CONSTRUCTION ACTIVITY. The National Pollutant Discharge Elimination System/State Disposal System general stormwater permit for construction activity as required by the Minnesota Pollution Control Agency.

~~***NEW DEVELOPMENT***. All construction activity that is not defined as redevelopment.~~

~~***NON-STORMWATER DISCHARGE***. Any discharge not composed entirely of stormwater.~~

NOTICE OF TERMINATION (***NOT)***. 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.

OPERATOR. The person, firm, governmental agency, or other entity designated by the owner who has day to day operational control and/or the ability to modify project plans and specifications related to the site plan. The permit application must list the operator as a permittee. Subcontractors hired by and under supervision of the general contractor are not operators.

OWNER(S). A natural person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination of, with a legal or equitable interest in the parcel of record.

PAVED SURFACE. A constructed hard, smooth surface made of asphalt, concrete or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots.

PERMANENT COVER. Surface types that will prevent soil failure under erosive conditions. Examples include: gravel, ~~asphalt,~~ concrete, ~~rip rap, roof tops,~~ perennial vegetative cover, or other landscaped material that will permanently arrest soil erosion. Permittees must establish a ~~A~~ uniform perennial vegetative cover (i.e., evenly distributed, without large bare areas) with a density of 70% of the native background vegetative cover for the area ~~must be established~~ on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures. Permanent cover does not include temporary BMPs such as wood fiber blanket, mulch, and rolled erosion control products. ~~***PERMANENT COVER*** does not include the practices listed under temporary erosion protection.~~

PERMITTEE. Any person, entity or group that applies to the city for a building permit, subdivision approval, or a grading permit. ***PERMITTEE*** also means that person or entity's agents, employees, contractors, subcontractors and others acting under the person, entity or group's direction.

RECEIVING WATER. Any lake, river, stream or wetland that receives stormwater discharges from an MS4.

~~***REDEVELOPMENT***. Any construction activity where, prior to the start of construction, the areas to be disturbed have 15% or more of impervious surface(s).~~

~~***RUNOFF COEFFICIENT***. The average annual fraction of total precipitation that is not infiltrated into or otherwise retained by the soil, concrete, asphalt or other surface upon which it falls that will appear at the conveyance as runoff.~~

SEASONALLY ***SATURATED SOIL***. Soils below the highest seasonal elevation ~~The highest seasonal elevation in the soil~~ that are ~~is~~ in a reduced chemical state because of soil voids being filled with water causing anaerobic conditions. Seasonally saturated soil is evidenced by the presence of redoximorphic features or other information determined by scientifically established methods or empirical field measurements. ~~***SATURATED SOIL*** is evidenced by the presence of redoximorphic features or other information.~~

SEDIMENT. The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, air or ice, and has come to rest on the earth's surface either above or below water level.

SEDIMENTATION. The process or action of depositing sediment caused by erosion.

SEDIMENT CONTROL. The methods employed to prevent sediment from leaving the development 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. A floating silt curtain placed in the water is not a sediment control BMP to satisfy perimeter control requirements, except as provided for in the NPDES/SDS general stormwater permit for construction activity.

SIGNIFICANT MATERIALS. Includes, but is not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under § 101(14)

of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); any chemical the facility is required to report pursuant to § 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); fertilizers, pesticides and waste products such as ashes, slag, and sludge that have the potential to be released with stormwater discharges. When determining whether a material is significant, the physical and chemical characteristics of the material should be considered (e.g., the material's solubility, transportability and toxicity characteristics) to determine the material's pollution potential (40 C.F.R. § 122.26(b)(12)).

SITE PLAN. A joint stormwater and erosion and sediment control plan that is a document containing the requirements of ~~§ 153.472~~ 154.03, that when implemented will decrease soil erosion on a parcel of land and off-site nonpoint pollution and sediment damages.

SOIL. The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this ~~document~~ ordinance stockpiles of sand, gravel, aggregate, concrete or bituminous materials are not considered ***SOIL*** stockpiles.

STABILIZE, STABILIZED, and/or STABILIZATION. The exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Grass, agricultural crop or other seeding alone is not stabilization. Mulch materials must achieve approximately 90% ground coverage (typically two tons/acre).

STORMWATER. Any precipitation runoff, stormwater runoff, snow melt off and any other surface runoff and drainage as defined by Minn. R. 7090.0080, subp. 12.

STORMWATER POLLUTION CONTROL PLAN. A joint stormwater and erosion and sediment control plan that is a document containing the requirements of ~~§ 153.473~~ 154.04, that when implemented will decrease soil erosion on a parcel of land and off-site nonpoint pollution and sediment damages.

~~***STORMWATER POLLUTION PREVENTION PLAN (SWPPP)***. A joint stormwater and erosion and sediment control plan that is a document containing the requirements of § 153.472, that when implemented will decrease soil erosion on a parcel of land and off site nonpoint pollution and sediment damages.~~

STRUCTURAL STORMWATER BMP. A stationary and permanent BMP that is designed, constructed and operated to prevent or reduce the discharge of pollutants in stormwater.

SUBDIVISION. Any tract of land divided into building lots for private, public, commercial, industrial and the like development. Minnesota Rule 6120.2500, subpart 17 defines a ***SUBDIVISION*** as land that is divided for the purpose of sale, rent or lease, including planned unit development.

SURFACE WATER OR WATERS. All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses and irrigation systems whether natural or artificial, public or private, except that surface waters do not include treatment basins or ponds that were constructed from upland.

TEMPORARY EROSION PROTECTION. Methods employed to prevent erosion during construction activities. Examples of ***TEMPORARY EROSION PROTECTION*** include, but are not limited to: straw, wood fiber blanket, wood chips, vegetation, mulch and rolled erosion control products.

~~***TP***. Total phosphorus.~~

~~***TSS***. Total suspended solids.~~

URBAN. Of, relating to or characteristic of constituting a city.

VEGETATED OR GRASSED SWALES. A vegetated earthen channel that conveys stormwater, while treating the stormwater by biofiltration. The swales remove pollutants by both filtration and infiltration.

VOLUME REDUCTION PRACTICES. Engineering practices (e.g., infiltration or other) designed to retain the water quality volume on-site. Wet sedimentation basins and filtration systems are not considered to be volume reduction practices.

WATERS OF THE STATE. As defined in Minn. Stat. § 115.01(22), as it may be amended from time to time, the term means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

WATER POLLUTION.

(A) The discharge of any pollutant into any waters of the state or the contamination of any waters of the state so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, agricultural, commercial, industrial, recreational or other legitimate uses, or to livestock, animals, birds, fish or other aquatic life; or

(B) The alteration made or induced by human activity of the chemical, physical, biological or radiological integrity of waters of the state as defined by Minn. Stat. § 115.01, Subd. 13, as it may be amended from time to time.

WATER QUALITY VOLUME.

(A) For construction activity (excluding linear projects), one (1) inch of runoff from the sum of the new and Fully Reconstructed impervious surfaces created by the project (calculated as an instantaneous volume); or

(B) For linear projects, the greater of one (1) inch of runoff from the new impervious surface or one-half (0.5) inch of runoff from the sum of the new and Fully Reconstructed impervious surfaces created by the project (calculated as an instantaneous volume).

~~***WET DETENTION FACILITY***. A permanent man-made structure for the temporary storage of runoff that contains a permanent pool of water.~~

WETLAND or ***WETLANDS***.

(A) ~~As defined in Minn. Rules 7050.0130, subpart F, ***WETLANDS*** are t~~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.

(B) ***WETLANDS*** generally include swamps, marshes, bogs and similar areas.

(C) Constructed ***WETLANDS*** designed for wastewater treatment are not waters of the state.

(D) ***WETLANDS*** must have the following attributes:

(1) A predominance of hydric soils;

(2) 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

(3) Under normal circumstances support a prevalence of the vegetation.

§ 154.03~~153.472~~ CONSTRUCTION AND POST-CONSTRUCTION SITE PLAN ~~STORMWATER POLLUTION PREVENTION PLAN (SWPPP)~~

(A) Construction Stormwater Management. Any applicant proposing a land disturbance activity within the city that is 1/2 acre or larger, including projects less than 1/2 acre that are part of a larger common plan of development or sale, ~~or greater or proposes a common plan development of sale that disturbs greater than one acre,~~ shall apply to the city for a grading permit. Any applicant proposing a land disturbance activity within the city that is 1 acre or larger will also have to obtain coverage under the Minnesota Pollution Control Agency's Construction Stormwater General Permit – MNR100001 (CSW Permit). The applicant shall submit a grading plan and a ~~SWPPP~~ site plan with the application. No ~~land~~ construction activity shall ~~be disturbed~~ begin until the ~~SWPPP~~ site plan ~~grading~~ is approved by the city engineer and the grading permit is issued. At a minimum, the applicant's ~~SWPPP~~ site plan must include all items as required by the most current CSW Permit~~version of the NPDES general stormwater permit for construction activity~~, including but not limited to:

(1) Erosion prevention practices; ~~BMPs to minimize erosion;~~

(2) Sediment control practices; ~~BMPs to minimize discharge of sediment and other pollutants;~~

(3) Dewatering and basin draining; ~~BMPs for dewatering activities;~~

(4) Inspection and maintenance; ~~Site inspections and records of rainfall events;~~

(5) Pollution prevention management measures; ~~BMP maintenance;~~

(6) Temporary sediment basins; and ~~Management of solid and hazardous waste on each project site;~~ and

(7) Termination condition. ~~Final stabilization upon the completion of construction activity; and~~

(8) ~~Criteria for the use of temporary sedimentation basins.~~

~~Site inspections. Inspections will be conducted in accordance with the requirements of the NPDES general stormwater permit for construction activity.~~

(B) Post-construction stormwater management. Post-construction management applies to ~~new development and redevelopment projects with~~ a land disturbance of greater than or equal to 1/2 acre, including projects less than 1/2 acre that are part of a larger common plan of development or sale. Applicants shall submit a site plan with post-construction

stormwater management BMPs designed with accepted engineering practices to the city engineer for review and approval prior to any construction activity.

(1) The permittee shall use permanent structural best management practices in order to achieve the applicable minimum control requirements as specified by the most current version of the National Pollution Discharge Elimination System/State Disposal System (NPDES/SDS) Municipal Separate Storm Sewer (MS4) permit. The permanent structural BMPs must treat the water quality volume on any project where the sum of the new impervious surface and the fully reconstructed impervious surface equals one or more acres. ~~The permittee shall use any combination of BMPs, with the highest preference given to green infrastructure techniques and practices necessary to meet the following conditions to the maximum extent practicable (MEP):~~

(a) For construction activity (excluding linear projects), the water quality volume must be calculated as one (1) inch times the sum of the new and the fully reconstructed impervious surface. ~~There must be no net increase from pre-project conditions on an annual average basis of stormwater discharge volume, stormwater discharges of total suspended solids (TSS) and total phosphorus (TP) for new development projects.~~

(b) For linear projects, the water quality volume must be calculated as the larger of one (1) inch times the new impervious surface or one-half (0.5) inch times the sum of the new and the fully reconstructed impervious surface. ~~There must be a net reduction from pre-project conditions, on an annual average basis, of stormwater discharge volume, stormwater discharges of TSS and TP for redevelopment projects.~~

(2) The permittee is prohibited from using infiltration techniques to achieve the conditions in § ~~153.472~~154.03(B~~C~~)(1)(a) and (b) when the infiltration stormwater BMP will receive discharges from or be constructed in areas:

(a) That receive discharges from vehicle fueling and maintenance areas, regardless of the amount of new and fully reconstructed impervious surface; ~~Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the Agency.~~

(b) Where high levels of contaminants in soil or groundwater may be mobilized by the infiltrating stormwater. To make this determination, the owners and/or operators of construction activity must complete the MPCA's site screening assessment checklist or conduct their own assessment. The submitted assessment must be retained with the site plans; ~~Where vehicle fueling and maintenance occur.~~

(c) Where soil infiltration rates are more than 8.3 inches per hour unless soils are amended to slow the infiltration rate below 8.3 inches per hour; ~~With less than three feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.~~

(d) With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock;

(e) ~~Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater.~~Of predominately Hydrologic Soil Group D (clay) soils;

(f) In an Emergency Response Area (ERA) within a Drinking Water Supply Management Area (DWSMA) as defined in Minnesota Administrative Rules § 4720.5100, sub. 13, classified as high or very high vulnerability as defined by the Minnesota Department of Health;

(g) In an ERA within a DWSMA classified as moderate vulnerability unless the permittee performs or approves a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater;

(h) Outside of an ERA within a DWSMA classified as high or very high vulnerability unless the permittee perform or approves a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater;

(i) Within 1,000 feet up-gradient or 100 feet down gradient of active karst features; or

(j) That receive stormwater runoff from these types of entities regulated under NPDES for industrial stormwater: automobile salvage yards; scrap recycling and waste recycling facilities; hazardous waste treatment, storage, or disposal facilities; or air transportation facilities that conduct deicing activities.

(3) For non-linear projects where the water quality volume cannot cost effectively be treated as required by § ~~153.472~~ 154.03 (B)(1)(a), on the site of the original construction activity, the owner of the construction activity shall identify locations where off-site treatment projects can be completed. If the entire water quality volume is not addressed on the site of the original construction activity, the remaining water quality volume must be addressed through off-site treatment and, at a minimum, the permittee must: ~~Infiltration techniques are prohibited, without higher engineering review, sufficient to provide a functioning treatment system and prevent adverse impacts to groundwater, when the infiltration device will be constructed in areas:~~

(a) Select an off-site location using the following order of preference: ~~With predominately Hydrologic Soil Group D (clay) soils.~~

1. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity;
2. Locations within the same Department of Natural Resources catchment area as the original construction activity;

3. Locations in the next adjacent Department of Natural Resources catchment area up-stream; or

4. Locations anywhere within the city's jurisdiction.

(b) Off-site treatment projects must involve the creation of new permanent structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. Routine maintenance of structural stormwater BMPs required by the MS4 permit cannot be used to meet mitigation requirements of § 154.03~~153.472~~(B). ~~Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.~~

(c) Off-site treatment projects must be completed no later than twenty-four (24) months after the start of the original construction activity. ~~Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. Rule 4720.5100, subp. 13.~~

(d) ~~Where soil infiltration rates are more than 8.3 inches per hour.~~

(4) For linear projects where the entire water quality volume cannot be treated within the existing right-of-way in accordance with § ~~153.472~~ 154.03 (B)(1)(b), a reasonable attempt to obtain additional right-of-way, easement, or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first. Volume reduction practices are not required if the practices cannot be provided cost effectively as approved by the city engineer. If additional right-of-way, easements, or other permission cannot be obtained, owners of construction activity must maximize the treatment of the water quality volume prior to discharge. ~~lack of right-of-way precludes the installation of volume control practices that meet the conditions for post-construction stormwater management in § 153.472(C)(1)(a) and (b), the permittee must meet the requirements of § 153.472(C)(5).~~

~~The City Engineer or designee may allow for a lessor stormwater volume control than the requirements contained in § 153.472(C)(1)(a) and (b) under the following circumstances:~~

~~The permittee is unable to infiltrate stormwater through a designed system due to the infiltration related limitations outlined in § 153.472(C)(2) or (3); or~~

~~The permittee implements volume reduction techniques to the MEP, other than infiltration, (e.g., evapotranspiration, reuse/harvesting, conservation design, green roofs, etc.) on the site of the original construction activity that reduces stormwater discharge volume, but may not meet the conditions for post-construction stormwater management in § 153.472(C)(1)(a) and (b).~~

~~The City Engineer may permit a permittee to mitigate TSS and TP requirements outlined in § 153.472(C)(1)(a) and (b), if the permittee cannot cost effectively meet the requirements on the site of the original construction activity. The City Engineer will designate the location of the mitigation project. The mitigation~~

~~project must involve the creation of new structural stormwater BMP or the retrofit of an existing structural stormwater BMP, or the use of a properly designed regional structural stormwater BMP. Routine maintenance of structural stormwater BMPs required by the MS4 permit cannot be used to meet mitigation requirements of § 153.472(C)(1)(a) and (b). The mitigation project shall be completed within 24 months after the start of the original construction activity.~~

~~Mitigation projects must be completed to the MEP in the following order of preference:~~

~~Locations that yield benefits to the same receiving water that receives runoff from the original construction activity;~~

~~Locations within the same Department of Natural Resource (DNR) catchment area as the original construction activity;~~

~~Locations in the next adjacent DNR catchment area up-stream; and~~

~~Locations anywhere within the permittee's jurisdiction.~~

~~(8)~~(5) The permittee, upon approval by the city, may elect to make a payment in lieu of a private mitigation project, as outlined in § ~~153.472~~ 154.03(B~~C~~)(1), as funding for a public stormwater project. The payment will be used to meet the ~~TP and TSS~~ requirements of § ~~153.472~~ 154.03(B~~C~~)(1)(a) and (b) utilizing the same criteria in § ~~153.472~~ 154.03(B~~C~~)(~~3~~7)(a), (b) and (c).

~~(9)~~(6) Long-term inspection and maintenance plans for privately-owned permanent stormwater management facilities are required. They must be submitted with the grading permit application and ~~SWPPP~~ site plan to the city for review and approval.

~~(10)~~(7) The owners of private stormwater structural BMPs, constructed after August 1, 2013, to meet the requirements of § ~~153.472~~ 154.03(B~~C~~)(1)(a) and (b), and are directly connected to the city's MS4 are responsible for the long term operations and maintenance of the BMP. The owner shall allow the city engineer upon presentation of credentials, to access to the site at all times in accordance with the provisions of § ~~153.479~~154.10. The city may assess the owner for maintenance costs if the owner fails to complete the required maintenance. The city may also direct the owner to modify, reconstruct or construct a new structural stormwater BMP, if the current structural BMP fails to meet the requirements of § ~~153.472~~ 154.03(B~~C~~)(1)(a) and (b). The city may assess the engineering and construction costs to the owner.

§ 154.04 ~~153.473~~ STORMWATER POLLUTION CONTROL PLAN.

Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities that do not meet the threshold of § 154.03~~153.472~~ must submit a stormwater pollution control plan to the city at the time of application. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until the city approves this plan. At a minimum these pollution abatement control practices must conform to those in the current version of the State Pollution Control Agency's publication, *Protecting Water Quality in Urban Areas*.

(A) *General policy on stormwater runoff rates.* Stormwater runoff rates must not increase over the predevelopment two-year, ten-year and 100-year peak storm discharge rates, based on the last ten years of how that land was used. Also, accelerated channel erosion must not occur as a result of the proposed activity.

(B) *The stormwater pollution control plan and the grading plan.* The stormwater pollution control plan's measures, the limit of disturbed surface and the location of buffer areas shall be marked on the approved grading plan, and identified with flags, stakes, signs and the like on the development site before work begins.

(C) *Inspections of the Stormwater Pollution Control Plan measures.* At a minimum, such inspections shall be done weekly and after every storm event that is large enough to result in run off from the site by either the developer or the developer's designated representative.

(D) *Minimum requirements of the stormwater pollution control plan.* The Stormwater Pollution Control Plan shall be prepared and signed by a licensed professional engineer and shall contain the following information:

(1) The name and address of the applicant and the location of the activity;

(2) Project description: the nature and purpose of the land disturbing activity and the amount of grading, utilities and building construction involved;

(3) Phasing of construction: time frames and schedules for the project's various aspects;

(4) A map of the existing site conditions: existing topography, property information, steep slopes, existing drainage systems/patterns, type of soils, waterways, wetlands, vegetative cover, 100- year floodplain boundaries and locations of existing and future buffer strips;

(5) A site construction plan that includes the location of the proposed land disturbing activities, stockpile locations, erosion and sediment control plan, construction schedule and the plan for the maintenance and inspections of the stormwater pollution control measures;

(6) Adjacent areas: neighboring streams, lakes, residential areas, roads and the like, which might be affected by the land disturbing activity;

(7) The site's areas that have the potential for serious erosion problems;

(8) Erosion and sediment control measures: the methods that will be used to control erosion and sedimentation on the site, both during and after the construction process;

(9) Permanent stabilization: how the site will be stabilized after construction is completed, including specifications, time frames or schedules; and

(10) Calculations: any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones and other applicable practices.

(E) *General stormwater pollution control plan criteria.* The plan shall address the following:

(1) Stabilizing all exposed soils and soil stockpiles and the related time frame or schedule;

(2) Establishing permanent vegetation and the related time frame or schedule;

(3) Preventing sediment damage to adjacent properties and other designated areas such as streams, wetlands, lakes and unique vegetation (e.g., oak groves, rare and endangered species habitats);

(4) Scheduling for erosion and sediment control practices;

(5) Where permanent and temporary sedimentation basins will be located;

(6) Engineering the construction and stabilization of steep slopes;

(7) Measures that will control the quality and quantity of stormwater leaving a site;

(8) Stabilizing all waterways and outlets;

(9) Protecting storm sewers from the entrance of sediment;

(10) What precautions will be taken to contain sediment when working in or crossing water bodies;

(11) Restabilizing utility construction areas as soon as possible;

(12) Protecting public roads from sediment and mud carried from the site by construction and other traffic;

(13) Disposing of temporary erosion and sediment control measures;

(14) How the temporary and permanent erosion and sediment control practices will be maintained; and

(15) How collected sediment and floating debris will be disposed.

(F) *Minimum stormwater pollution control measures and related inspections.* The following minimum control measures are required where bare soil is exposed; (due to the diversity of individual construction sites, each site will be individually evaluated; where additional control measures are needed, they will be specified at the discretion of the city; the city will determine what action is necessary to prevent excessive erosion from occurring on the site):

(1) All grading plans and building site surveys must be reviewed by the city for effectiveness of erosion control measures in the context of the site topography and drainage;

(2) Sediment control measures must be properly installed by the builder before construction activity begins. The 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 must then be scheduled, and passed before a footing inspection will be done;

(3) Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel;

(4) If a stormwater management plan involves directing some or all of the site's runoff, the applicant or his or her designated representative shall obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of the water;

(5) The scheduling of the site's activities to lessen their impact on erosion and sediment creation;

(6) Minimize amount of exposed soil; and

(7) Control runoff as follows: Unless precluded by moderate or heavy snow cover (mulching can take place if a light snow cover is present), stabilize all exposed inactive disturbed soil areas within 100 feet of any water of the state, or within 100 feet any conveyance (curb, gutter, storm sewer inlet, drainage ditch and the like) to a water of the state with sod, seed or weed free mulch. This must be done if the developer will not work the area for seven days on slopes greater than three feet horizontal to one foot vertical (3:1), 14 days on slopes ranging from 3:1 to 10:1 and 21 days for flatter slopes.

(8) Generally, sufficient silt fence will be required to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through silt fence's pores.

(9) Temporary stockpiling of 50 or more cubic yards of excess soil on any lot or other vacant area may require a grading permit for the earth moving activity in question.

(10) For soil stockpiles greater than ten cubic yards the toe of the pile must be more than 25 feet from a road, drainage channel and stormwater inlet or property line. If for any reason a soil stockpile of any size is located closer than 25 feet from a road, drainage channel, stormwater inlet or property line, and left for more than seven days, it must be covered with tarps or controlled in some other manner.

(11) All sand, gravel or other mining operations taking place on the development site shall have a national pollutant discharge elimination system general stormwater permit for industrial activities and all required State Department of Natural Resources permits.

(12) Temporary rock construction entrances may be required wherever vehicles enter and exit a site.

(13) Parking is prohibited on all bare lots and all temporary construction entrances, except where street parking is not available.

(14) Public Streets must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays. Establishment of a regular sweeping schedule is encouraged.

(15) Water, impacted by the construction activity, that is being removed from the site by pumping must be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. The water shall not be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property or a wetland.

(16) All storm drain inlets must be protected during construction until control measures are in place with either silt fence or an equivalent barrier that meets accepted design criteria, standards and specifications of the State Pollution Control Agency.

(17) Catch basins; all newly installed and rehabilitated catch basins must be provided with a sump area for collecting coarse-grained material, when required by the city. The basins must be cleaned when they are half filled with material.

(18) Roof drain leaders; if possible, all newly constructed and reconstructed buildings must route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.

(19) Follow-up inspections must be performed by the developer or subsequent owner on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In cases where cooperation is withheld, construction stop orders may be issued by the city, until erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.

(20) Inspection and maintenance: all stormwater pollution control management facilities must be designed to minimize the need of maintenance, to provide easy vehicle and personnel access for maintenance purposes and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in stormwater runoff. The city or its designated representative shall inspect all stormwater management facilities during construction. Thereafter, the developer or subsequent owner shall inspect at least once every five years. The developer or subsequent owner will keep all inspection records on file for a period of six years.

(G) *Permanent stormwater pollution controls.*

(1) The applicant shall install or construct, or pay the city fees for all stormwater management facilities necessary to manage increased runoff, so that the two-year, ten-year and 100-year peak storm discharge rates existing before the proposed development, are not increased. These predevelopment rates shall be based on the last ten years of how that land was used. Accelerated channel erosion must not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or a monetary contribution to the development and maintenance of community stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

(2) All calculations and information used in determining these peak storm discharge rates shall be submitted along with the stormwater pollution control plan.

(3) The applicant shall consider reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of treated (e.g., settled) water without compromising the integrity or quality of the wetland or pond.

(4) The following stormwater management practices must be investigated in developing the stormwater management part of the stormwater pollution control plan in the following descending order of preference:

(a) Protect and preserve as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches;

(b) Flow attenuation by use of open vegetated swales and natural depressions;

(c) Stormwater wet detention facilities (including percolation facilities); and

(d) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in division (G) above. The applicant shall provide justification for the method selected.

(H) *Minimum design standards for stormwater wet detention facilities.* At a minimum these facilities must conform to the most current technology as reflected in the current version of the State Pollution Control Agency's publication, *Protecting Water Quality in Urban Areas* and the current requirements found in the same agency's NPDES permits for stormwater associated with construction activities.

(I) *Minimum protection for natural wetlands.*

(1) Runoff must not be discharged directly into wetlands without appropriate quality (i.e., treated) and quantity runoff control, depending on the individual wetland's vegetation.

(2) At the minimum, a 30-foot wide protective buffer strip of predevelopment vegetation, if possible, shall surround all wetlands. The buffer strip's width shall be increased at least four feet for every 1% of slope of the surrounding land. The city may choose to extend the size of the buffer strip to protect sensitive wetlands from degradation.

(a) Detailed buffer design is usually site specific. Therefore the city can require a larger buffer than the minimum.

(b) For newly constructed buffer sites the design criteria should follow common principles and the example of nearby natural areas. The site should be examined for existing buffer zones and mimic the nearby slope structure and vegetation as much as possible. Buffer design and protection during construction should do any or all of the following: slow water runoff, trap sediment, enhance water infiltration, trap fertilizers, pesticides, pathogens, heavy metals, trap blowing snow and soil, and act as corridors for wildlife. How much stress is put on these functions will determine the buffer zone's final configuration.

(c) The applicant or developer or subsequent owner shall maintain the buffer strip for the first year.

(d) Because drain tiles will short-circuit the benefits of vegetated buffer strips, drain tiles on the development site should be identified and rendered inoperable.

(e) Buffer strips may be made into perpetual conservation easements.

(3) Wetlands must not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas of at least equal public value. Compensating for the impact by replacing or providing substitute wetland resources or environments with those of at least equal public value. Compensation, including the replacement ratio and quality of replacement should be consistent with the requirements outlined in the rules adopted by the Board of Water and Soil Resources.

(4) Work in and around wetlands must be guided by the following principles in descending order of priority:

(a) Avoid the direct or indirect impact of the activity that may destroy or diminish the wetland;

(b) Minimize the impact by limiting the degree or magnitude of the wetland related activity and its implementation;

(c) Rectify the impact by repairing, rehabilitating or restoring the affected wetland environment with one of at least equal public value; and

(d) Reduce or eliminate the adverse impact over time by preservation and maintenance operations during the life of the activity.

(J) *Models/methodologies/computations.* Hydrologic models and design methodologies used for the determining runoff characteristics and analyzing stormwater management structures must be approved by the city. Plans, specifications and computations for stormwater management facilities submitted for review must be sealed and signed by a licensed professional engineer. All computations must appear in the plans submitted for review, unless otherwise approved by the city.

(Ord. passed 10-11-1963)

~~**SECTION 3. AMENDMENT.** West St. Paul City Code Sections 153.474, 153.475, 153.476 and 153.477 regarding review, plan modification, financial securities and notification requirements related to construction stormwater management is hereby amended as follows:~~

§ 154.05~~153.474~~ REVIEW.

The city shall review the ~~SWPPP~~ site plan or stormwater pollution control plan.

(A) *Permit required*. If the city determines that the site plan or stormwater pollution control plan meets the requirements of this chapter, the city shall issue a permit valid for a specified period of time, which authorizes the land disturbance or construction activity contingent on the implementation and completion of the submitted plan.

(B) *Denial*. If the city determines that the ~~SWPPP~~ site plan or stormwater pollution control plan does not meet the requirements of this chapter, the city shall not issue a permit for the land disturbance or construction activity. All land use and building permits for the site in question must be suspended until the developer has an approved site plan or stormwater pollution control plan.

§ 154.06~~153.475~~ MODIFICATION OF PLAN.

An approved site plan or stormwater pollution control plan may be modified on submission of a written application for modification to the city, and after written approval by the city. In reviewing such an application, the city may require additional reports and data. The city shall retain the written records in accordance with the Minnesota Pollution Control Agency's Municipal Separate Sewer System NPDES/SDS general permit.

§ 154.07~~153.476~~ FINANCIAL SECURITIES.

(A) *Generally*.

(1) The applicant shall provide security for the performance of the work described and delineated on the approved grading plan involving the stormwater pollution control plan and any stormwater and pollution control plan related remedial work in an amount of $3,000 per gross acre or $1,000 for each single- or two-family home, whichever is greater.

(2) This security must be available prior to commencing the project.

(3) The form of the securities shall adhere to the following.

(a) The first $3,000 (in U.S. currency) or 15%, whichever is greater, of this financial security must be by cash deposit to the city.

(b) Deposit with the city, a responsible escrow agent or trust company, at the option of the city, money, an irrevocable letter of credit, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein the financial institution pledges that the funds are on deposit and guaranteed for payment. The type of security must be of a type acceptable by the city.

(c) The city may request a greater financial security, if the city considers that the development site is especially prone to erosion or the resource to be protected is especially valuable.

(B) *Maintaining the financial security*.

(1) If at anytime during the course of the work this amount falls below 50% of the required deposit, the developer shall make another deposit in the amount necessary to restore the deposit to the required amount.

(2) If the developer does not bring the financial security back up to the required amount within seven days after notification by the city that the amount has fallen below 50% of the required amount, the city may:

(a) Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy; and/or

(b) Revoke any permit issued by the city to the applicant for the site in question.

(C) *Proportional reduction of the financial security*. When more than half of the development's exposed soil area achieves final stabilization, the city may reduce the total required amount of the financial security by half, if recommended by the City Engineer.

(D) *Action against the financial security.*

(1) The city may act against the financial security if any of the conditions listed below exist.

(2) The city shall use funds from this security to finance remedial work undertaken by the city or a private contractor under contract to the city and to reimburse the city for all direct cost incurred in the process of remedial work including, but not limited to, staff time, attorney's fees, consulting fees and any other fees related thereto.

(a) The developer ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.

(b) The developer fails to conform to the grading plan and/or the ~~SWPPP~~ site plan and/or the stormwater pollution control plan as approved by the city.

(c) The techniques utilized under the ~~SWPPP~~ site plan or stormwater pollution control plan fail within one year of installation.

(d) The developer fails to reimburse the city for corrective action taken under § 154.08 ~~153.477~~.

(E) *Returning the financial security*. Any unspent amount of the financial security deposited with the city for faithful performance of the ~~SWPPP~~ site plan or stormwater pollution control plan and any ~~SWPPP~~ site plan or stormwater and pollution control plan related remedial work must be released six months after the completion of the installation of all stormwater pollution control measures as shown on the grading and/or the stormwater pollution control plan and establishment of final stabilization.

§ 154.08~~153.477~~ NOTIFICATION OF FAILURE ~~OF THE SWPPP~~ TO PROPERLY IMPLEMENT SITE PLAN OR STORMWATER POLLUTION CONTROL PLAN.

The city shall notify the developer when the city is going to act on the financial securities part of this chapter.

(A) *Notification by the city*. The initial contact will be to a party or parties listed on the application and/or the ~~stormwater pollution control~~ site plan. Forty-eight hours after notification by the city or 72 hours after the failure of erosion control measures, whichever is less, the city, at its discretion, may begin corrective work.

(B) *Erosion off-site*.

(1) 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 48 hours of obtaining the adjoining property owner's permission.

(2) In no case, unless written approval is received from the city, shall more than seven calendar days go by without corrective action being taken.

(3) If in the discretion of the city, the applicant does not repair the damage caused by the erosion, the city may do the remedial work required and charge the cost to the applicant.

(C) *Erosion into streets, wetlands or water bodies*.

(1) If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands or other water bodies, prevention strategies, cleanup and repair must be immediate.

(2) The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

(D) *Failure to do corrective work*. When an applicant fails to conform to any provision of this policy within the time stipulated, the city may take the following actions:

(1) Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy;

(2) Revoke any permit issued by the city to the applicant for the site in question;

(3) Direct the correction of the deficiency by city forces or by a separate contract. The issuance of a permit constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control;

(4) All costs incurred by the city in correcting ~~stormwater pollution control~~ site plan deficiencies must be reimbursed by the applicant. If payment is not made within 30 days after costs are incurred by the city, payment will be made from the applicant's financial securities as described in § 154.07~~153.476~~; and

(5) If there is an insufficient financial amount, in the applicant's financial securities as described in § 154.07~~153.476~~, to cover the costs incurred by the city, then the city may assess the remaining amount against the property.

§ 154.09~~153.478~~ EXCEPTIONS.

In any case where, upon application of the responsible person or persons, the city finds that by reason of exceptional circumstances strict conformity with this chapter would be unreasonable, impractical or not feasible under the circumstances; the city in its discretion may grant an exception therefrom upon such conditions as it may prescribe for prevention, control or abatement of pollution in harmony with the general purposes of this chapter.

(Ord. passed 10-11-1963)

§ 154.10~~153.479~~RIGHT OF ENTRY AND INSPECTION.

The applicant shall allow the city and its authorized representatives, upon presentation of credentials to:

(A) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, surveys or investigations;

(B) Bring the equipment upon the permitted development as is necessary to conduct the surveys and investigations;

(C) 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;

(D) Inspect the stormwater pollution control measures required by the city; and

(E) Sample and monitor any items or activities pertaining to permits issued by the city.

(Ord. passed 10-11-1963)

§ 154.11~~153.480~~ABROGATION AND GREATER RESTRICTIONS.

It is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Ord. passed 10-11-1963)

SECTION 3. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary publication may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The ordinance amendment removes stormwater from the zoning code, creates a new code section, and reflects the current standards for stormwater management.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the City Council of the City of West St. Paul, Minnesota this 13th day of March, 2023.

Attest:

David J. Napier, Mayor	Nicole Tillander, City Clerk