ORDINANCE 271

AN ORDINANCE REPEALING AND REPLACING ORDINANCE 258 RELATING TO STORM WATER MANAGEMENT WITHIN THE CITY OF ARLINGTON

SECTION ONE:
The City Council of the City of Arlington, Minnesota to promote the public safety, health, and welfare, hereby ordains:

A. FINDINGS.

1. The City of Arlington finds that storm water regulation and management is a matter of public health, safety, and welfare because:

    a. Water bodies, roadways, structures, and other property within, and downstream of the City of Arlington are at times subjected to flooding;

    b. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the City of Arlington and the region;

    c. Changes in land use alter the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, which further result in increased flooding, increased stream channel erosion, and increased sediment transport and deposition;

    d. Storm water runoff produced by changes in land use contributes to increased quantities of water-borne pollutants

    e. Increases of storm water runoff, soil erosion, and non-point source pollution have occurred as a result of changes in land use, and cause deterioration of the water resources within and downstream of the City of Arlington;

    f. Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future earth change projects within the City of Arlington will, absent reasonable regulation and control, adversely affect the City of Arlington water resources and those downstream;

    g. Storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from earth changes and by the use of Best Management Practices and other innovative means;

    h. Adopting and implementing the standards, criteria and procedures contained in this Ordinance will address many of the deleterious effects of storm water runoff, both from a water quality and a water quantity perspective;

    i. Adopting these standards is necessary for the preservation of the public health, safety, and welfare and mitigation of adverse impacts from storm water runoff.

2. The City of Arlington hereby finds soil erosion and sediment control and management are matters of public health, safety, and welfare, because:

a. The water quality within the City of Arlington, Sibley County, and the State of Minnesota is greatly affected by erosion and sedimentation in the watershed.

b. During construction activities land is highly susceptible to erosion and/or sedimentation especially when Best Management Practices (BMPs) for erosion and sediment control are not installed and maintained properly.

c. Sediment is considered to be one of the most damaging pollutants in Minnesota, and is the major pollutant by volume in state surface waters.

d. Runoff from construction sites is by far the largest source of sediment in urban areas under development. Sediment-loading rates from construction sites are 5 to 500 times greater than those from undeveloped land (USEPA, 1977).

e. Another major source of sediment is streambank erosion, which is accelerated by increases in peak rates and volumes of runoff due to urbanization.

f. Proper design and installation of BMPs, monitoring BMP effectiveness, and maintaining BMPs are issues that are critical in reducing the effects of erosion and are best addressed at the local level.

g. Regulating erosion and sediment before, during and after construction is a powerful and effective local government tool for protecting water quality.

B. *STATUTORY AUTHORIZATION.*

This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 105, 462, and 497, Minnesota Rules, Parts 6120.2500-6120.3900, and Minnesota Rules Chapters 8410 and 8420.

C. PURPOSE AND INTENT.

1. The purpose of this Ordinance is to control, reduce, and to the extent possible, eliminate storm water pollution along with soil erosion and sedimentation thereby helping to preserve natural resources within the City of Arlington from undesirable impacts related to development or other activities. It establishes standards and specification for conservation practices and planning activities, which minimize storm water pollution, soil erosion, and sedimentation.

2. The intent of this Ordinance is to establish minimum storm water management and erosion and sedimentation requirements and controls to accomplish, among others, the following objectives:

   a. To reduce flood damage;

   b. To minimize increased storm water runoff rates and volumes due to changes in land use;

   c. To minimize the physical deterioration of existing watercourses, culverts and bridges, and other structures;

d. To encourage water recharge into the ground where geologically favorable conditions exist;

e. To prevent an increase in non-point source pollution;

f. To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;

g. To minimize the impact of changes in land use upon stream bank and streambed stability;

h. To reduce erosion from earth change or construction projects;

i. To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution;

j. To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands proposed for redevelopment that were not previously developed with storm water management controls meeting the purposes and standards of this article;

k. To reduce the adverse impact of changing land use on neighboring properties and water bodies and, to that end, this article establishes minimum standards to protect water bodies from degradation resulting from changing land use.

D. SCOPE.

1. This Ordinance outlines the requirements for storm water management systems within the City of Arlington. In the event of any conflict between the provisions of this Ordinance or other regulations adopted by the City of Arlington, State of Minnesota or Federal authorities, the more restrictive standard prevails.

2. The provisions of the “Waste Controls and Illicit Discharge” and “Inspections and Enforcement” portions of this Ordinance apply to all areas within the City at all times. All other provisions of this Ordinance shall apply to all sites on which a Land Disturbance Activity occurs or has occurred since the date of the enactment of this Ordinance.

3. Exemptions.

   a. Section F of this Ordinance entitled “Waste Control and Illicit Disposal” as may be amended applies to all properties within the City regardless of the exemptions herein.

   b. Any part of a subdivision or Planned Unit Development if the preliminary plat has been approved by the City Council on or before the effective date the Ordinance, except that a storm water management permit for land disturbing activities on such properties may still be required, as determined by the City Engineer, and such activities are still subject to other compliance requirements in accordance with this Ordinance. A storm water management plan is generally not required for individual lots or properties located within a subdivision or plat for which a Storm Water Management Plan has already been approved. This exemption is subject to the City Engineer’s consideration and approval.

c. A parcel for which a building permit has been approved on and/or before the effective date of this Ordinance and an NPDES permit was not required.

d. Linear road construction, widening, or maintenance projects not related to a specific development project (e.g. City project or County project) where the lack of right-of-way precludes the installation of any of the permanent storm water management practices outlined in this Ordinance provided that other treatment such as grassed swales, smaller ponds, or grit chambers, are provided prior to discharge to surface waters and further provided that such projects are undertaken in accordance with all applicable state and federal regulations regarding erosion control and storm water management.

e. Any land disturbing activity greater than one acre for which plans have been approved by the City within six months prior to the effective date of this Ordinance.

f. Land disturbing activities to construct, install, or maintain public or private utilities that disturb less than 3,750 cubic feet of soil.

g. All USDA/NRCS agricultural activities for the production of agricultural, horticultural, or silvicultural (forestry) crops and livestock production including the installation or maintenance of drainage tile lines and fencing for livestock or other agricultural purposes.

h. Emergency repair work requiring immediate action, provided the disturbed area is limited to the minimum area needed to address the emergency and the area is stabilized in accordance with this Ordinance as soon as possible. A permit may be required for all subsequent or additional work.

i. Minor, incidental land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work provided:

   i. Sediments will not enter the storm water system. The City Engineer shall make a determination of whether or not sediments will enter the storm water system.

   ii. The activity will disturb less than 3,750 cubic feet of soil, calculated as cubic feet = length X width X depth (e.g. 3,750 equates to 5,000 sq feet excavated to a depth of 8") of soil.

j. Installation of fence, sign, telephone, cable television, electric poles, and other kinds of posts or poles, utility lines or service connections to these utilities which result in disturbance of less than 3,750 cubic feet of soil.

k. Construction of a dwelling on a legal lot within a development that itself previously received approval under this Ordinance or has an applicable NPDES Permit, provided that less than 3,750 cubic feet of soil is disturbed for such construction.

E. DEFINITIONS.

1. Unless specifically defined below, the words or phrases used in this Ordinance shall have the same definition as is in the current NPDES General Storm Water Permit for

Construction Activities. 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. For the purpose of this Ordinance, certain terms and words are hereby defined as follows:

a. Applicant. The party that is submitting an application for a permit to conduct land-disturbing activities.

b. Best Management Practices (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies. BMPs must be adapted to the site and can be adopted from other sources.

c. Emergency Action. Any action of the City needed to abate, remedy, or correct a condition that presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment.

d. Erosion Control or Prevention. The interception of precipitation and preventing of soil particles from moving. Practices that prevent erosion include, but are not limited to, construction staging, protecting existing vegetation, and minimizing tracking of disturbed slopes. Products designed to control erosion include straw, mulch, ground covers, fiber blankets, hydro-seeding, and the like.

e. Illicit Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section D of this Ordinance.

f. Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, 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 any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

g. Impervious Surface. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

h. Land Disturbing Activity. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land.

i. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.

ii. Emergency work to protect life, limb, or property and emergency repairs, unless the Land Disturbing Activity would have otherwise 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.

i. Land Disturbing Activity, Minor Incidental. Land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work provided:

i. Sediments will not enter the storm water system. The City Engineer shall make a determination of whether or not sediments will enter the storm water system.

ii. The activity will disturb less than 3,750 cubic feet of soil, calculated as cubic feet = length X width X depth (e.g. 3,750 equates to 5,000 sq feet excavated to a depth of 8 inches) of soil.

j. Land Disturbing Activity, Small Site. An activity disturbing 3,750 cubic feet or more of soil which does not disturb an area equal to or greater than one acre in size.

k. Land Disturbing Activity, Large Site. Any project that either requires an NPDES permit as per the current NPDES Permit requirements and all subsequent revisions for, construction activity disturbing one or more acres of land or a project adding at least 10,000 square feet of new impervious surface. Aggregate surfacing is considered an impervious surface.

l. National Pollutant Discharge Elimination System (NPDES). The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

m. NPDES Storm Water Permit for Construction Activities. A permit authorizing the discharge of storm water associated with construction activity issued by the Minnesota Pollution Control Agency (MPCA) under the National Pollutant Discharge Elimination System (NPDES)/State Disposal System Permit Program. The permit shall refer to the most current general permit issued by the MPCA or the permit issued for a specific project, if applicable.

n. Owner. Any person holding title to or having a divided or undivided interest in the property or site. "Owner" means the person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.

o. Permanent Cover. Final stabilization. Examples include grass, gravel, asphalt, and concrete.

p. Permittee. A person or persons, firm, or governmental agency or other institution that signs the application submitted to the MPCA and is responsible for compliance with the terms and conditions of this permit.

q. Sediment Control. The capturing of soil particles after they have been dislodged and have begun to be carried away from the site. Products designed for sediment control include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation ponds

r. Storm water. Precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

s. Storm Water Pollution Prevention Plan or SWPPP. An erosion and sediment control plan developed in accordance with the requirements of the NPDES Storm Water Permit for "Land Disturbing Activity, Large Site" as defined herein. A plan for storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site non-point pollution.

t. 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.

u. Temporary Erosion Protection. Methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.

v. Watershed District. The High Island Creek Watershed District.

F. WASTE CONTROLS AND ILLICIT DISCHARGE

1. Illegal Disposal

a. No person shall throw, deposit, place, leave, maintain, keep, or permit to be thrown, placed, left, maintained or kept, any refuse, rubbish, garbage, or any other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private plot of land in the City, so that the same might be or become a pollutant, except in containers, recycling bags, or other lawfully established waste disposal facility.

b. No person shall intentionally dispose of grass, leaves, dirt, or other landscape debris into a water resource buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, wetland, storm drain or any fabricated natural conveyance.

2. Illicit Discharges and Connections

a. No person shall cause any illicit discharge to enter the municipal storm water system unless such discharge:

i. Consists of non-storm water that is authorized by an NPDES point source permit obtained from the MPCA; or,

ii. Is associated with fire fighting activities.

b. No person shall use any illicit connection to intentionally convey non-storm water to the City storm water system.

3. Good Housekeeping Provisions - Any owner or occupant of property within the City shall comply with the following good housekeeping requirements:

a. No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm drain system may occur. This Ordinance shall apply to both actual and potential discharges.

i. For pools, water should be allowed to sit seven days to allow for chlorine to evaporate before discharge. If fungicides have been used, water must be tested and approved for discharge to the wastewater treatment plant.

b. Storage of Materials, Machinery, and Equipment

i. Objects, such as motor vehicle parts, containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials, shall not be stored in areas susceptible to runoff or discharge to a storm water system.

ii. Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain or collect leaks, spills, or discharges without discharge to the storm water system.

iii. Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries, which is located in an area susceptible to runoff, shall be removed as soon as possible and disposed of properly. Household hazardous waste shall be stored indoors and disposed of according to state law.

G. PERMIT REQUIRED

1. Land Disturbing Activities, Minor Incidental.

a. Property owners conducting “land disturbing activities, minor incidental” meeting the definition included in this Ordinance are encouraged to incorporate erosion and sediment control best management practices when completing a project.

b. No permit from the City of Arlington relating to storm water and erosion/sediment control is necessary for “land disturbing activities, minor incidental”.

2. Land Disturbing Activities, Small Sites.

a. “Land Disturbing Activities, Small Sites” require an administrative permit from the City of Arlington accompanied by any applicable fee.

b. The Owner of the subject property and/or the Owner's Representative (contractor) for any "Land Disturbing Activities, Small Site" projects shall complete an "Erosion and Sediment Control Planning Checklist" (available from the City) specifying the erosion and sediment control practices to be used on site.

c. Erosion control for "Land Disturbing Activities, Small Sites" shall meet the requirements of the rules of the Watershed District, as may be amended.

3. Land Disturbing Activities, Large Sites.

a. "Land Disturbing Activities, Large Sites" require submittal of a permit application to the City and the application for an NPDES Storm Water Permit for Construction Activities. The project shall incorporate all requirements of the NPDES Storm Water Permit for Construction Activities.

b. Erosion and sediment controls, both temporary and permanent, on all "Land Disturbing Activities, Large Sites" shall, at a minimum, meet the requirements and provisions defined in the NPDES Storm Water Permit for Construction Activities.

c. No Land Disturbing Activity on any "Land Disturbing Activity, Large Site" shall be conducted prior to obtaining coverage under the NPDES Storm Water Permit for Construction Activities.

H. PERMIT/PLAN REVIEW PROCESS.

1. Applications for an administrative permit for "Land Disturbing Activities, Small Sites" or permits for "Land Disturbing Activity, Large Site" projects shall be filed with the Zoning Administrator and/or his/her designee on an official application form of the City, accompanied by a fee as established by City Council resolution.

2. Information Requirement.

a. Applications for "Land Disturbing Activities, Small Site" projects shall include:

i. A completed application and required fee.

ii. Detailed written and graphic materials fully explaining the proposed change, development, or project.

iii. A completed Erosion and Sediment Control Planning Checklist (available from the City)

b. Applications for "Land Disturbing Activities, Large Site" projects, unless specifically waived by the City Engineer, shall include:

i. A completed application form and required fee.

ii. Copies of permits or permit applications required by other jurisdictions (e.g. NPDES, Wetland Conservation Act, Clean Water Act Section 404) including mitigation measures required as a result of any review for the project (e.g. wetland mitigation, EAW, EIS, archaeology survey, etc.).

iii. Identification

1) Project name;

2) Project type (residential, commercial, industrial, road construction, or other);

3) Project location;

4) County parcel identification number and legal description;

5) Names and addresses of the owner, developer, land surveyor, engineer, and any agents, contractors, and subcontractors who will be responsible for project implementation;

6) Identification of the entity responsible for the maintenance of any privately owned storm water management systems.

iv. A narrative description of the project including:

1) Proposed land disturbing activities and measures to prevent erosion and manage sedimentation.

2) The schedule of anticipated starting and completion dates of each land disturbing activity including the installation of construction site erosion control measures.

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

4) Proposed permanent storm water management BMPs and how they achieve the stated purpose.

5) A Storm Water Pollution Prevention Plan (SWPPP) compliant with the most recent requirements of the Minnesota NPDES General Storm water Permit for Construction Activity and all subsequent revisions.

v. Maps and data depicting existing predevelopment site conditions for the applicable site and areas beyond the subject site boundary sufficient to illustrate the relationship of the existing site and the adjacent area.

1) Property lines, lot dimensions, existing zoning, location of all buildings, setbacks, impervious surfaces, roads, driveways, parking areas, natural and artificial water features (including normal water level and ordinary high water level), location of drain tiles, ditches, wetland boundaries, flood zone determination, location and description of vegetative cover/wooded area and extent thereof proposed for removal. If required, and at the Applicant's expense: identification of ordinary high water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone

determination or wetland delineation, or both, may be required at the Applicant's expense.

2) If required, a map of watershed drainage areas, soil types, infiltration rates, depth to bedrock, and depth to seasonal high water table.

3) Steep slopes where areas of 12% or more existing over a distance for 50 feet or more, including bluff areas if applicable.

4) Hydrologic calculations for volume runoff, velocities, and peak flow rates by watershed, for the 2-yr, 10-yr, and 100-yr 24-hour storm events, as required by the City Engineer. These shall include:

a) Pre-existing peak flow rates.

b) Assumed runoff curve numbers.

c) Time of concentration used in calculations.

d) If a flood insurance study has been done by the National Flood Insurance Program, the 100-year flood elevation with and without the floodway.

vi. Maps and data depicting proposed construction plans. A complete site plan signed and dated by a licensed professional engineer drawn to an appropriate and legible scale applicable to subject site and areas beyond the subject site boundary sufficient to illustrate the relationship of the existing site and the adjacent area.

1) Property lines and lot dimensions of plat. If required, elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project. Identification of all natural and artificial water features including, but not limited to lakes, ponds, streams (including intermittent streams), ditches and steep slopes of 12% or more existing over a distance for 50 feet or more. If required, the ordinary high water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the Applicant's expense.

2) The dimensions and setbacks of all proposed buildings and easements. The location and area of all proposed impervious surfaces including public and private roads, interior roads, driveways, parking lots, pedestrian ways, and rooftops. Traffic patterns and types of paving and surfacing materials shall be illustrated.

3) Location, size, and grade of proposed public sewer and water mains.

4) ***Locations and dimensions of areas to be disturbed, areas to be protected from land disturbing activities, and locations and dimensions of all temporary soil or material stockpiles;***

5) ***Locations and dimensions of all temporary and permanent erosion prevention, sediment control, and soil stabilization; if required, location of temporary and permanent sedimentation basins;***

6) ***Location and engineered designs for structural Best Management Practices for the site during and after construction;***

7) ***Finished grading plan containing contours at two (2)-foot intervals or less and clearly showing the relationship of proposed changes to existing topography and remaining features;***

8) ***A drainage plan of the developed site showing 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;***

9) ***Hydrologic calculations for volume runoff, velocities, and peak flow rates by watershed, for the 2-yr, 10-yr, and 100-yr 24-hour storm events. These may include:***

   a) ***Post construction peak flow rates with no detention.***

   b) ***Post construction peak flow rates with detention.***

   c) ***Assumed runoff curve numbers.***

   d) ***Time of concentration used in calculations.***

   e) ***If a flood insurance study has been done by the National Flood Insurance Program, the 100-year flood elevation with and without the floodway.***

   f) ***Hydrologic calculations for retaining soil particles greater than 5 microns (80% reduction) for new construction sites and greater than 20 microns (40% reduction) for redevelopment sites resulting from a one-year 24-hour storm event.***

10) ***If required by the City Engineer: Bankfull discharge rate of creek or stream if there is a waterway on the site or if the site discharges directly to the waterway; normal water level, high water level, and emergency overflow elevations for the proposed basins on site; and, floodway and flood fringe boundary, if available.***

11) Other information determined to be necessary by the City and/or its designee.

c. Applications must be complete before they are accepted. The Zoning Administrator or his/her designee may request additional information from the Applicant

concerning the application or may retain expert opinions at the expense of the City, or may require as a condition of proceeding with its consideration of any matter, that the Applicant furnish expert opinion and data at the expense of the Applicant.

d. The Zoning Administrator shall forward the completed "Land Disturbing Activities, Large Site" application to the City Engineer for his/her review and approval. The City Engineer shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Ordinance.

e. The City Engineer shall make a written determination on approval or denial of the administrative permit or storm water pollution prevention plan within sixty (60) days from the date of submission of a complete application, unless the review period is extended as per Mn. State 15.99, as may be amended. Specific conditions to assure compliance with applicable standards of this Ordinance may be attached to the permit. Each SWPPP shall be reviewed by the City Engineer. Any SWPPP found to not substantially meet all requirements of the NPDES Storm Water Permit for Construction Activities may be returned to the Owner or Owner Representative for correction. A corrected SWPPP shall be submitted to the City within five (5) working days. Modifications to a SWPPP or "Land Disturbing Activity, Small Site" administrative permit shall be submitted to the City for review.

I. STORM WATER MANAGEMENT PERFORMANCE STANDARDS AND DESIGN CRITERIA.

1. All storm water must be discharged in a manner that does not cause nuisance conditions, erosion in receiving channels or on downslope properties, or inundation in wetlands causing an adverse impact to the wetlands.

2. Proposed design, suggested location and phased implementation of effective, practicable storm water management measures for "Land Disturbing Activities, Large Site" plans shall be designed, engineered and implemented to achieve the following results:

a. Volume Control - The first half-inch of runoff from a 24-hour storm shall be infiltrated unless said infiltration is not practical in the opinion of the City Engineer.

b. Runoff rate control. All runoff hydrological calculations shall be according to the methodology approved by the City Engineer. All storm water facilities shall be designed, installed and maintained to effectively accomplish the following:

i. Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm event.

ii. Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm event. At a minimum the storm sewer conveyance system shall be designed for this storm event.

iii. Low areas must have an acceptable overland drainage route with the proper transfer capacity when the storm event is exceeded.

iv. ***Safely pass the 100-year, 24-hour storm event.***

c. ***Outlets – Storm water discharges must have a stable outlet capable of carrying designed flow at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to the storm water conveyance or waterbody.***

d. ***Facilities to treat and store runoff shall be required for all projects creating one acre or more of impervious surface. Such facilities may include alternatives to traditional detention, retention, and/or infiltration ponds. Alternative facilities are subject to approval of the City Engineer and the City Council.***

e. ***For projects proposing ponding, the design shall conform to the current requirements found in the National Pollution Discharge Elimination System Construction Permit. In addition, the following are required:***

i. ***Pond side slopes shall not exceed one (1) foot horizontal to four (4) vertical (1:4) and should provide a bench just at the normal water level with side slopes no less than one (1) foot horizontal to ten (10) feet vertical (1:10) for safety considerations.***

ii. ***All public and private owned storm water management facilities shall provide an unobstructed access path, a minimum of 20 feet, capable of supporting light truck traffic during normal weather for the purpose of conducting inspections of the facility and maintenance thereof. No private storm water facility may be approved unless an easement is provided to the City allowing for access for maintenance and inspection. Maintenance agreements before, during, and after development are also required.***

iii. ***To provide proper protection for adjacent property within the first tier from the pond, the design storm interval for the ponding area is a 100-year, 24-hour storm with correctly sized conveyances for 100-yr, 24-hour storm flows consistent with standards used by the cities, townships, counties, state, and federal agencies in planning for the flood protection of homes and public facilities. As an additional safety factor, the lowest floor and low opening elevation of a structure in a development should be at least three feet above the 100-year 24-hour elevation of the pond. The low floor and low opening elevation of structures that are adjacent to ponds should be certified by the builder during basement construction to ensure adequate freeboard. An emergency overflow system must be established for the health and safety of the area. If the area is landlocked (no natural drainage outlet), the low floor and low opening elevation of structures should be five feet above the calculated high water level.***

J. MAINTENANCE OF PRIVATELY OWNED STORM WATER MANAGEMENT SYSTEMS.

1. All storm water management systems that are owned by an entity other than the City and discharge within the City must be designed:

   a. To minimize the need for maintenance;

   b. To provide easy vehicle and personnel access for maintenance purposes; and,

   c. Designed by a licensed professional engineer with design approved by the City Engineer.

2. It shall be the responsibility of the Owner to obtain any necessary easements or other property interests to allow access to privately owned storm water management facilities for inspection and maintenance purposes.

3. All privately owned storm water facilities shall be maintained in proper condition consistent with the performance standards for which they were originally designed. All privately owned storm water management systems must have an operation and maintenance plan that ensures continued effective removal of the pollutants carried in storm water runoff. The maintenance plan shall define who will conduct the maintenance, the type of maintenance and the maintenance intervals. All privately owned storm water management systems shall be operated and maintained in accordance with the plan.

4. ***All settled materials shall be removed and properly disposed of according to law.***

K. ***MAINTENANCE OF PUBLICLY OWNED STORM WATER FACILITIES.***

1. ***The City, at its sole discretion, may approve dedication by easement of storm water facilities to the public, require adequate access roads to such facilities be created and maintained free of debris, and require easements are maintained by abutting property owners.***

2. ***The City shall annually perform the maintenance of in place storm water facilities within the City as provided for in the local water management plan, as described in the applicable development agreement, and/or as provided for in the watershed management plan of affected watershed management organization(s) if there is no approved local water management plan.***

3. ***The City shall notify the property owners abutting publicly owned storm water facilities if scheduled maintenance is needed according to periodic site inspections or maintenance plans on file.***

L. INSPECTIONS.

1. Inspections as defined in this provision do not fulfill the inspections and maintenance requirements as defined in the NPDES Permit for Construction Activities.

2. The City may conduct inspections of any site on which a Land Disturbing Activity is occurring on a regular basis to monitor erosion and sediment control practices. In all cases the inspectors will attempt to work with the Owner or Owner's Representative to maintain proper erosion and sediment control at all sites. In cases where cooperation is

withheld, construction stop work orders may be issued by the City until erosion and sediment control measures meet the requirements of this Ordinance.

3. The City may conduct inspections of all privately owned Storm Water Management Systems at any reasonable time.

4. An Owner shall promptly allow the City and its authorized representatives, upon presentation of credentials to:

    a. Enter upon a site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.

    b. Bring such equipment upon the permitted site as is necessary to conduct such inspections, 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 a NPDES Storm Water Permit for Construction Activities.

    d. Inspect the storm water pollution control measures.

    e. Sample and monitor any items or activities pertaining to storm water pollution control measures.

    f. Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be born by the Owner.

M. ENFORCEMENT.

1. The City may take the following action in the event of a failure by the Owner or the Owner’s Representative to meet the terms of this Ordinance:

    a. The City Engineer may issue a written stop work order upon his determination that construction, excavation or any other activity regulated by this Ordinance is taking place in violation of a NPDES Storm Water Permit for Construction Activities, a Watershed District permit, or this Ordinance. The Stop Work Order shall detail the violations, the recommended or suggested remedies necessary to correct the violations, and the time frame allowed in which the property owner is to correct the violations. The Order shall also indicate that the property owner has ten (10) business days from the receipt of the stop work order to appeal the order to the City Council. Upon receipt of a Stop Work Order, the person conducting the construction, excavation or other activity regulated by this Ordinance shall immediately cease the activity until authorization for such activity is granted by the City Engineer.

    b. Revoke any land use and building permits issued to the owner of the site, its contractor, or its representative.

    c. Conduct or hire a contractor to conduct remedial or corrective action on the development site or adjacent site affected by a failure in any erosion or sediment control measure.

i. The Owner shall be personally liable for the cost to the city associated with correcting the failure or mitigating damage from the failure. As soon as the work has been completed and the cost determined, the City Administrator or other official shall prepare a bill for the cost and mail it to the Owner. The amount shall be immediately due and payable at the office of the City Administrator. If payment is not made within thirty days, payment may be made from any of the Owner's financial securities.

ii. The City Administrator shall, following completion of remedial or corrective action, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

d. Bring other actions against the Owner or Owner Representative to recover costs of remediation or meeting the terms of this Ordinance, which are not covered by financial securities.

e. Any person, firm, or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. Each day that a separate violation exists shall constitute a separate offense.

2. Maintenance and repair of a privately owned Storm Water Management System. The City may take the following action in the event of a failure by Owner or Owner Representative to meet the terms of this Ordinance:

a. Conduct or hire a contractor to conduct maintenance and repair of a privately owned Storm Water Management System.

i. The Owner shall be personally liable for the cost to the City associated with maintaining or repairing a privately owned Storm Water Management Systems. As soon as the work has been completed and the cost determined, the City Administrator or other official shall prepare an invoice for the cost and mail it to the Owner. The amount shall be immediately due and payable at the office of the City Administrator. If payment is not made within thirty days, payment may be made from any of the Owner's financial securities.

ii. The City Administrator shall, following completion of maintenance or repair, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as Council may determine in each case.

b. Bring actions against the Owner to require maintenance and repair of any privately owned Storm Water Management System.

N. RESPONSE TIME AND NOTIFICATION.

1. The following standards apply to all Small Site and Large Site Land Disturbing Activities until final stabilization has been achieved.

   a. If erosion breaches the perimeter of the site, the Owner or Owner Representative shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, may more than seven (7) calendar days go by without corrective action being taken. When restoration to wetlands and other resources are required, the Applicant shall work with the appropriate agency to ensure that the work is done properly.

   b. If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The Owner or Owner Representative shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

   c. Should the Owner or Owner Representative fail to respond to the failure of a sediment or erosion control measure as required herein, the City may initiate actions to conduct remedial and corrective actions required. Any notification required will be to the Owner or Owner Representative. Except during an emergency action, forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the Owner or Owner Representative, the City has been unable to establish contact, the City may proceed with remedial and corrective work.

2. The following standards apply to all Large Site Land Disturbing Activities until final stabilization has been achieved.

   a. The schedule for inspection, maintenance, and repair of all erosion and sediment control measures shall be conducted as required in the NPDES Storm Water Permit for Construction Activities and Watershed District rules.

3. The following standards apply to maintenance and repair of a privately owned Storm Water Management Systems.

   a. The inspection, maintenance, and repair of all privately owned Storm Water Management Systems shall be conducted as required in the NPDES Storm Water Permit for Construction Activities.

   b. Should the Owner fail to maintain and repair a privately owned Storm Water Management System as required herein, the City may initiate actions to conduct required maintenance and repairs. Any required notification shall be by certified mail to the Owner. The City, at its discretion, may begin maintenance or repairs at any

time following the expiration of the following time periods allowed for the Owner to complete all required maintenance or repairs:

i. Within 365 calendar days of the Owner's receipt of a notification to remove accumulated sediment from a retention basin.

ii. Within 60 calendar days of the Owner's receipt of a notification to perform any repair or maintenance, other than removal of accumulated sediment from a retention basin, needed to remedy a condition that is not resulting in erosion or a visible release of sediment.

iii. Within 14 calendar days of the Owner's receipt of a notification to perform any repair or maintenance needed to remedy a condition that is resulting in erosion or a visible release of sediment.

c. Emergency Action. Notwithstanding any other provisions of the Ordinance, the City may enter property to repair, alter, or remove any erosion or sediment control measure or Storm Water Management System as needed to abate, remedy, or correct a condition that presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. During such a condition the City may take immediate action, and then notify the Owner or Owner Representative as soon as possible.

SECTION TWO: EFFECTIVE DATE.
This Ordinance shall be effective upon publication.

Adopted by the City of Arlington on the 19th day of March, 2012.

Attest: James R. Kreft, Mayor

Matthew Jaunich, City Administrator

First Reading: March 5, 2012
Second Reading: March 19, 2012
Adopted: March 19, 2012
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