ORDINANCE NO. 972

AN ORDINANCE OF THE CITY OF SHAKOPEE, MINNESOTA AMENDING SHAKOPEE CITY CODE CHAPTER 54, WATER RESOURCES MANAGEMENT

THE CITY COUNCIL OF THE CITY OF SHAKOPEE, MINNESOTA, ORDAINS:

Section 1. Chapter 54 of the Shakopee City Code is amended to read as follows:

CHAPTER 54: WATER RESOURCES MANAGEMENT

Cross-reference:
Stormwater, see Ch. 53

GENERAL PROVISIONS

§ 54.01 TITLE.

This chapter shall be known and may be referred to as the "Water Resource Ordinance" or the "Water Resource Chapter". When referred to herein it shall be known as "this ~~chapter~~Chapter". (2013 Code, § 16.01) (Ord. 807, passed 9-25-2008)

§ 54.02 PURPOSE.

(A) This ~~chapter~~ Chapter is established to promote, preserve and enhance natural resources within the city and protect them from adverse effects occasioned by poorly-sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique or fragile environmentally sensitive land.

(B) This ~~chapter~~ Chapter minimizes conflicts and encourages compatibility between land disturbing and development activities and environmentally sensitive lands. By requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, this chapter achieves a balance between urban growth and development and the protection of water and natural resources within the city. (2013 Code, § 16.01) (Ord. 807, passed 9-25-2008)

§ 54.03 SCOPE.

(A) ***Applicability***.

(1) Every applicant for subdivision approval, a conditional use permit, or a grading permit to allow land disturbing activities must submit a stormwater management plan to the Engineering Division of the city's Public Works Department. The stormwater management plan shall be submitted with the land use application, grading permit application, or as directed by the Public Works Director. No subdivision approval or grading permit will be issued until approval of the stormwater management plan or a waiver has been obtained in conformance with the provisions of this chapter.

(2) Every applicant for subdivision approval or a grading permit that involves wetland disturbing activities or work near wetlands must submit a wetland assessment and delineation report to the Engineering Division. The wetland assessment and delineation report shall be submitted with the land use application, grading permit application, or as directed by the Public Works Director. No subdivision approval or grading permit will be issued until approval of the wetland replacement plan application or a certificate of exemption has been obtained in conformance with the provisions of this chapter and the State Wetland Conservation Act of 1991, M.S. § 103G.222 through 103G.2375, as they may be amended from time to time, ("WCA").

(3) Every applicant for a building permit, subdivision approval, conditional use permit, or a grading permit must submit ~~an application for~~ an erosion control plan to the Engineering Division. The ~~erosion control permit application and~~ erosion control plan shall be submitted with the building permit application, land use application, grading permit application, or as directed by the Public Works Director. No grading permit or building permit will be issued until approval of the erosion control plan has been obtained in conformance with the erosion control measures, standards, and specifications contained in the State Pollution Control Agency publication, ~~*Protecting Water Quality in Urban Areas*~~*Minnesota Stormwater Manual*, or as otherwise approved by the Public Works Director.

(4) Construction, improvement, repair, or alteration of bridges, culvert crossings, driveways, roads, or utilities must obtain a grading permit if the activity involves crossing or impacting a watercourse with a tributary area in excess of 100 acres. The applicant shall provide documentation prepared by an engineer demonstrating that the hydraulic capacity of the watercourse conforms to the city's comprehensive water resources management plan and that activities improve watercourse stability.

(B) ***Exemptions***. The provisions of this chapter do not apply to:

(1) Any part of a subdivision if a preliminary plat for the subdivision that has been approved by the City Council on or before the effective date hereof;

(2) Any land disturbing activity for which plans have been approved by the watershed management organization having jurisdictional control of the land within 6 months prior to the effective date hereof;

(3) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;

~~(4) Excavations or land moving activities involving less than 50 cubic yards of soil; or~~

~~(5)~~(4) Emergency work to protect life, limb, or property.

(C) ***Waiver***. The Public Works Director may waive any of the requirements of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the water quality and natural resources of the city or adversely impact environmentally sensitive land. The Public Works Director may require as a condition of the waiver that the applicant dedicate easements or construct certain facilities as the Public Works Director deems necessary.
(2013 Code, § 16.01) (Ord. 807, passed 9-25-2008)

§ 54.04 APPLICATION OF THIS CHAPTER.

(A) In their interpretation and application, the provisions of this chapter shall be the requirements for the promotion of water resource management within the city.

(B) Where any provision of this chapter is either more restrictive or less restrictive than a comparable provision imposed by any other code, ordinance, statute, rule, or regulation of any kind, the more restrictive provision, or the provision which imposes a higher standard or requirement shall prevail.

(C) Words or terms defined in this chapter shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this chapter. The present tense shall include the past and future tenses.
(2013 Code, § 16.01) (Ord. 807, passed 9-25-2008)

§ 54.05 SEVERABILITY.

Every section of this Chapter is declared separable from every other section. If any section is held to be invalid by competent authority, no other section shall be invalidated by such action or decision.

§ 54.06 INCORPORATION BY REFERENCE.

The following are hereby incorporated into this Chapter by reference:

(A) The National Pollutant Discharge Elimination System Permit, MN R100001 (NPDES Construction General Permit) issued by the Minnesota Pollution Control Agency, August 1, 2013, as amended. The NPDES Construction General Permit is incorporated into this chapter by reference.

~~(A)~~(B) The city's Design Criteria document. These standards shall serve as the official guide for stormwater principles, methods, and practices for proposed development activities. The city's Design Criteria document is incorporated into this Chapter by reference.

STORMWATER MANAGEMENT

§ 54.14 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person who wishes to obtain a building permit, zoning or subdivision approval.

BEST MANAGEMENT PRACTICE (BMP). Practices to reduce the volume of runoff, and improve water quality, to prevent pollution of waters of the state. Best Management Practices are designed to reduce stormwater runoff volume, peak flows, and nonpoint source pollution through evapotranspiration, infiltration, detention, and filtration, and may include activities, prohibitions of practices, treatment requirements, operating procedures, and other management practices.

CONSTRUCTION ACTIVITY. Any disturbance to the land that results in a change in the topography, existing soil cover, or the existing soil topography that may result in accelerated

stormwater runoff, including clearing, grading, filling, and excavating.

CONTROL MEASURE. A practice or combination of practices to control erosion and attendant pollution.

FLOOD FRINGE. The portion of the flood plain outside of the flood way.

FLOOD PLAIN. The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

FLOOD WAY. The channel of the watercourse, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge flood water and provide water storage during a regional flood.

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.

IMPERVIOUS SURFACE. Any surface area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious.

LAND DISTURBING OR DEVELOPMENT ACTIVITIES. Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

NEW DEVELOPMENT. Any construction activity that is not defined as redevelopment.

PERSON. Any individual, firm, corporation, partnership, franchisee, and association.

PERVIOUS SURFACE. Any surface area that allows infiltration of all or the majority of the precipitation that falls on it. Pervious surfaces include turfgrass, rain gardens, planting beds, and other infiltration BMPs.

PLAN. A storm water management plan governed by this chapter.

PUBLIC WATERS. Waters of the state as defined in M.S. § 103G.005, Subd. 15, as it may be amended from time to time.

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

REGIONAL FLOOD. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur

on an average frequency in the magnitude of a 100-year recurrence interval.

SEDIMENT. Solid matter carried by water, sewage, or other liquids.

STRUCTURE. Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

WETLANDS. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, **WETLANDS** must have the following 3 attributes:

(1) Have a predominance of hydric soils;

(2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

~~(1)~~(3) Under normal circumstances support a prevalence of the vegetation.

§ 54.15 STORMWATER MANAGEMENT PLAN.

(A) *Application procedure*.

(1) *Application*. A written application for stormwater management plan approval, along with a proposed stormwater management plan and maintenance agreement, shall be filed with the Engineering Division of the city's Public Works Department. The application shall include a statement indicating the grounds upon which the approval is being requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this ~~chapter and this code of ordinances~~Chapter.

(2) *Required plan submittals*.

(a) Two sets of clearly legible blue or black lined copies of drawings, electronic copy of drawings, and required information shall be submitted to the Engineering Division along with the process and approval fee. Information provided shall be prepared per the most recent edition of the city ~~design criteria~~Design Criteria and certified by an engineer licensed in the state. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.

(b) The plans shall be drawn at a minimum scale of 1 inch equals 100 feet and shall contain the following information:

1. *Existing site map*. A map of existing conditions showing the site and immediately adjacent areas within 200 feet of the site, including:

a. The name and address of the applicant, the section, township and range, north point, date, and scale of drawing and number of sheets;
b. The location of the property by showing an insert map at a scale sufficient to clearly identify its location and giving such information as the name and numbers of adjoining roads, railroads, utilities, subdivisions, cities, townships, and districts or other landmarks;
c. The existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than 2 feet;
d. A delineation of all ponds, infiltration features, streams, rivers, public waters, and wetlands located on and immediately adjacent to the site, including the depth of the water, the normal water level (NWL), the 100-year high water level (HWL), the ordinary high water level (OHW), a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the State Department of Natural Resources, the State Pollution Control Agency, or the U.S. Army Corps of Engineers;
e. The location and dimensions of existing stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where stormwater collects;
f. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of stormwater system proposed and describing any remedial steps to be taken by the applicant to render the soils suitable;
g. The location and description of any vegetative cover and a clear delineation of any vegetation proposed for removal;
h. The location of 100-year floodplains, flood fringes, and floodways;
i. The locations of any existing overhead or underground utilities;
j. The locations of property lines and easements; and
k. A city approved benchmark listing location and elevation.

2. *Site construction plan*. A site construction plan including:
a. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
b. Total site area;
c. Total area to be disturbed;
d. Locations and dimensions of all temporary soil or dirt stockpiles;
e. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this chapter;
f. A schedule of the anticipated start and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this chapter; and
g. Provisions for maintenance of the construction site erosion control measures during construction.

3. *Plan of final site conditions*. A plan of final site conditions on the same scale as the existing site map showing the proposed site changes including:
    a. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features
    b. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size, and description of all proposed landscape materials which will be added to the site as part of the development;
    c. A drainage plan of the developed site delineating in which direction and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect;
    d. The proposed size, alignment, and intended use of any structures to be erected on the site;
    e. A clear delineation and tabulation of all areas which will be paved or surfaced, including a description of the surfacing material to be used;
    f. Any other information pertinent to the particular project which, in the opinion of the applicant or the Public Works Director, is necessary for the review of the project;
    g. Proposed normal water level (NWL), 100-year high water level (HWL), ordinary high water level (OHW) of any ponds, infiltration facilities, streams, rivers, public waters, or wetlands on or downstream from the site;
    h. Building elevations including low floor elevations and low building opening elevations; and
    i. Overland emergency overflow routes and their elevations.

4. *Stormwater calculations*. Calculations demonstrating the following data shall be provided, according to the method established by the Engineering Division:
    a. Drainage maps that show the site, land that drains onto the site, and land that the site drains onto for existing and proposed conditions. Delineated drainage areas for ponds, wetlands, or other relevant waters should be indicated on these maps;
    b. A stormwater model conforming to Engineering Division standards that includes drainage areas, cover types, pond and wetland sizes, pond and wetland outlets, and natural or piped conveyance systems;
    c. Peak runoff rates from the site before and after development demonstrating that the proposed conditions conform to the policies outlined in the city's comprehensive water resources management plan;
    d. Volume of runoff from the site before and after development;
    e. National urban runoff program ("NURP") volume below and normal outlet required and provided in each pond;
    f. Infiltration calculations for proposed conditions; and
    g. A narrative summarizing the calculations and demonstrating that proposed drainage alterations do not unreasonably burden upstream or downstream land.

5. ~~*Solid*~~ *Soil borings*. If requested by the Public Works Director~~; and~~.

6. *Maintenance Agreement*. The applicant shall enter into a maintenance agreement with the city that documents all responsibilities for operation and maintenance of long-term stormwater treatment BMPs. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. All maintenance agreements must be approved by the city and recorded at the Scott County recorder's office prior to applying for permit termination. At a minimum, the maintenance agreement shall describe the inspection and maintenance obligations:

    a. The party who is permanently responsible for maintenance of the structural and nonstructural measures.
    b. Pass responsibilities for such maintenance to successors in title.
    c. Allow the city and its representatives the right of entry for the purpose of inspecting all permanent stormwater management systems.
    d. Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party of the permanent stormwater management systems.
    e. Include a maintenance plan that contains, but is not limited to the following:
        1. Identification of all structural permanent stormwater management systems.
        2. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to, quality, temperature, and quantity of runoff.
        3. Identification of the responsible party for conducting the inspection, monitoring, and maintenance of each practice.
        4. Include a schedule and format for reporting compliance with the maintenance agreement to the city.
    f. The issuance of a permit constitutes a right-of-entry for the city, its contractors, and agents to enter upon the site. The applicant shall allow the city, its contractors, agents, and any authorized representatives, upon presentation of credentials, to:
        1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
        2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
        3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit.
        4. Inspect the stormwater pollution control measures.
        5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.
        6. Correct deficiencies in stormwater and erosion and sediment control measures.

(~~6~~7) *Fees*. All applications for stormwater management plan or maintenance agreement approval shall be accompanied by a processing and approval fee as set by the most recent edition of the city's adopted fee schedule.

(B) *Stormwater management plan review procedure*.

(1) *Process*. Stormwater management plans and maintenance agreements meeting the requirements of this chapter shall be submitted to the Engineering Division of the city's Public Works Department for the Public Works Director's review and approval. The Public Works Director shall recommend approval, approval with conditions, or denial of the stormwater management plan and maintenance agreement to the Planning Commission. Following Planning Commission review, the stormwater management plan and maintenance agreement shall be submitted to the City Council for its review along with the Planning Commission's recommendation.

(2) *Duration*. Approval of a stormwater management plan submitted under the provisions of this chapter shall expire 2 years after the date of approval by the City Council unless construction has commenced in accordance with the plan; however, if prior to the expiration of the approval, the applicant makes a written request to the Public Works Director for an extension of time to commence construction setting forth the reasons for the requested extension, the City Council may grant 1 extension of not greater than 1 single year.

(3) *Revisions*. A stormwater management plan or maintenance agreement may be revised. All revised plans or agreements must contain all information required by this chapter and must be reviewed and approved by the Public Works Director.

(4) *Conditions*. A stormwater management plan and maintenance agreement may be approved by the City Council subject to compliance with conditions that are necessary to ensure that the requirements contained in this chapter are met. Such conditions may, among other matters, limit the size, kind, or character of the proposed development; require the construction of structures, drainage facilities, storage basins, and other facilities; require replacement of vegetation; establish required monitoring procedures; require that the work be staged over time; require alteration of the site's design to ensure buffering; or require the conveyance to the ~~City~~ city or other public entity of certain lands or interests therein.

(5) *Approval*. Upon approval of the stormwater management plan or maintenance agreement by the City Council, the applicant shall enter into an agreement with the city to ensure that any required improvements are constructed, any required easements are granted or dedicated, and that there is compliance with any conditions imposed by the City Council. The agreement shall guarantee completion and compliance with the conditions within a specific time, which time may be extended by the City Council. The agreement shall be in a form acceptable to the city.

(6) *Financial guarantee*. Upon approval of the stormwater management plan by the City Council, the applicant shall submit a letter of credit, or cash escrow, to cover 125% of the amount of the established cost of complying with the stormwater management plan. This

financial guarantee shall be in a form acceptable to the city and may be incorporated into the financial guarantee provided for grading activities or the financial guarantee provided for street and utility activities.

(C) *Stormwater management plan approval and implementation standards*.

(1) *Compliance with standards*. No stormwater management plan which fails to meet the standards contained in this ~~subchapter~~ Chapter shall be approved by the City Council.

(2) ~~*Adoption of design standards*. The city adopts the State Pollution Control Agency publication Protecting Water Quality in Urban Areas as its stormwater runoff design standards.~~All stormwater management plans must be submitted to and approved by the Public Works Director prior to the start of construction activity. At a minimum all applicants shall meet the criteria set forth below and observe the standards established by the NPDES Construction General Permit.

(3) ~~*Site de-watering*. Water pumped from a site may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.~~All stormwater management plans must address erosion and sediment control and shall meet the criteria of Chapter 54.45 through 54.54, inclusive.

~~(4) *Waste and material disposal*. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.~~

~~(5) *NPDES permit*. Any applicant required to obtain a national pollutant discharge elimination system (NPDES) general stormwater permit from the State Pollution Control Agency shall, prior to the start of construction, submit written verification of such permit to the city.~~

~~(6) *Tracking*. Each site shall have construction site entrances, graveled roads, access drives, and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.~~

~~(7) *Drain inlet protection*. All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence, or equivalent barrier meeting accepted design criteria, standards, and specifications set forth in the State Pollution Control Agency publication Protecting Water Quality in Urban Areas and amendments to the publication.~~

(~~8~~4) *Stormwater management requirements for permanent facilities*.

(a) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to meet ~~discharge rate~~ the criteria ~~outlined in~~ of the city's ~~c~~Comprehensive ~~w~~Water ~~r~~Resources

~~m~~Management ~~p~~Plan, Design Criteria, and the NPDES Construction General Permit. No private stormwater facilities will be approved by the city unless a maintenance plan ~~is~~and maintenance agreement are provided that defines who will conduct the maintenance, the type of maintenance, and intervals of the maintenance. In the alternative, or in partial fulfillment of this requirement and upon approval of the Public Works Director, an applicant may make an in-kind or monetary contribution to the development and maintenance of regional stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by 1 or more persons, including the applicant.

(b) Proposed Stormwater Management Plans shall incorporate volume control, water quality control, and rate control as the basis for stormwater management in the proposed development plan on sites without restrictions. All proposed Development and Redevelopment projects shall be in conformance with the City of Shakopee's Comprehensive Water Resources Management Plan, Design Criteria, and the most current requirements of the Minnesota Pollution Control Agency (MPCA) Municipal Separate Storm Sewer Systems (MS4) Permit, as applicable, meeting the more restrictive criteria.

(~~b~~c) The applicant shall reduce the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales, and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

(~~c~~d) The following stormwater management practices shall be investigated by the applicant in developing a stormwater management plan in the following descending order of preference, and the results of that investigation shall be provided to the city in written form as a part of the application:

1. Natural infiltration of precipitation on-site;
2. Flow attenuation by use of open vegetated swales and natural depressions;
3. Green infrastructure by use of rain gardens, bioswales, constructed wetlands, and other constructed infiltration practices;
~~3~~4. Stormwater retention facilities; and
~~4~~5. Stormwater detention facilities.

(~~d~~e) A combination of stormwater management practices may be used to achieve the applicable minimum control requirements specified in this chapter. Justification shall be provided by the applicant for the method selected.

(~~e~~f) ~~1.~~ A vegetative buffer shall be required for proposed open channel watercourses that drain 50 acres or more. All provisions in this chapter relating to wetland buffers shall also apply to watercourse buffers.

(g) ~~2.~~ The following additional provisions shall also apply:~~.~~

~~a~~1. Watercourses shall have a wetland management class of "low" as outlined in this chapter to determine the required area and minimum width of the watercourse buffer.

~~b~~2. The required area of the buffer shall be calculated using the average buffer width as measured from the ordinary high water level (OHWL). If the OHWL has not been established, the normal water level may be used. If the normal water level is used, the applicant shall provide documentation prepared by an engineer defining the normal water level of the watercourse.

~~c~~3. Buffers for watercourses are not required for those watercourses that require mowing to maintain their designed hydraulic capacity, as determined by the Public Works Director.

~~d~~4. Alterations to facilitate erosion control improvements to stabilize the watercourse, including the use of hard-armoring such as riprap is allowed in watercourse buffers with an approved grading permit for the activities. Equivalent water quality treatment shall be provided for buffer areas impacted by these activities.

(~~9~~5) *Pond design standards*. Stormwater detention facilities constructed in the city shall be designed according to standards established by the Engineering Division, and ~~shall contain, at a minimum, the following design factors~~as prescribed in the city's Design Criteria.~~:~~

~~(a) A permanent pool (dead storage) volume below the principal spillway (normal outlet) which shall be greater than or equal to the runoff from a 2-1/2 inch rainfall over the entire contributing drainage area assuming full development;~~

~~(b) A permanent pool average depth (basin volume/basin area) of 4 to 10 feet;~~

~~(c) An emergency overflow (emergency outlet) adequate to control the 1% frequency/critical duration rainfall event;~~

~~(d) Basin side slopes below the 100-year high water level should be no steeper than 4:1, and preferable flatter. A basin shelf with a minimum width of 10 feet and 1 foot deep below the normal water level is recommended to enhance wildlife habitat, reduce potential safety hazards, and improve access for long-term maintenance;~~

~~(e) To prevent short-circuiting, the distance between major inlets and the normal outlet shall be maximized;~~

~~(f) A flood pool (live storage) volume above the principal spillway shall be adequate so that the peak discharge rates meet the requirements of the city's comprehensive water resources management plan;~~

~~(g) Pond outlets may not be smaller than the minimum size indicated in the city's comprehensive water resources management plan;~~

~~(h) Consideration for aesthetics and wildlife habitat should be included in the design of the pond;~~

~~(i) A skimming device must be provided to deter floatable pollutants from discharging out of pond;~~

~~(j) Design of stormwater facilities shall accommodate the 100-year critical event (100-year, 24-hour storm event or 10-day snowmelt event). This includes lakes, ponds, and their outlets; and~~

~~(k) Pond normal water level elevations shall be established above the ordinary high water level of adjacent public waters, except where topography of the site, floodplain mitigation activities, or other design considerations are determined to be unfavorable for these conditions to occur. This determination shall be performed by the applicant's engineer and approved by the Public Works Director.~~

(~~10~~6) *Infiltration requirements*. Best management practices to manage for volume control and infiltration will be required to the maximum extent practical in accordance with the city's Design Criteria. ~~***MAXIMUM EXTENT PRACTICAL*** shall be defined as the infiltration of runoff from a 100-year, 24-hour rainfall event within 72 hours.~~

(a) The maximum extent practical required may be less if the Public Works Director determines that 1 or more of the following conditions apply. If 1 or more of the following conditions apply, the Public Works Director shall quantify the amount of infiltration that will be deemed as the maximum extent practical for the site:

1. The infiltration characteristics of soils on the site are not favorable for the infiltration of stormwater;
2. The site's drainage course is to regional infiltration or detention facilities controlled by the ~~City~~ city that reduce runoff volumes;
3. The development of the site does not increase the site's impervious areas; or
4. Other site conditions that make the infiltration of stormwater impractical as determined by the Public Works Director.

~~(b) Infiltration will be discouraged or not permitted in the following situations:~~

~~1. When documented past, present, or anticipated future land uses have resulted in or may result in contamination coming in contact with stormwater runoff;~~

~~2. When the areas for infiltration available on the site have less than a 3-foot separation from groundwater elevations;~~

~~3. Stormwater runoff shall be treated in a stormwater pond or by other means prior to entering an infiltration facility; or~~

~~4. The minimum infiltration requirements for any region of the city will be the requirements of the watershed district or watershed management organization policies that govern that region. These policies may be met through the use of regional or downstream systems prior to discharge of runoff to waters of the state.~~

~~(11) *Inspection and maintenance*. All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that~~

~~assures continued effective removal of pollutants carried in stormwater runoff. It shall be the responsibility of the applicant to provide or obtain any necessary easements or other property interests in order to allow the city access to the stormwater management facilities for inspection and maintenance purposes.~~

(7) *Mitigation*.

(a) Where construction projects cannot meet the volume, TSS, or TP reduction requirements for new development or redevelopment projects on the site of original construction, all methods must be exhausted prior to considering alternative locations where volume and treatment standards can be achieved. If the city has determined that all methods have been exhausted, the permittee will be required to identify alternative locations where the standards can be achieved or alternative methods in accordance with the city's Design Criteria.

(~~12~~8) *Facilities*. Stormwater and infiltration facilities must be located at least 50 feet away from the top of a bluff.

(~~13~~9) *Watershed management plans/groundwater management plans*. Stormwater management plans shall be consistent with adopted watershed management plans and groundwater management plans ~~prepared~~ approved by the State Board of Water and Soil Resources.

(10~~4~~) *Easement*. If the stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests to permit the flow of water across the property.

(11~~5~~) *Low-floor/building opening elevations*.

(a) Any new development or redevelopment shall maintain a minimum building opening elevation of at least 3 feet above the anticipated 100-year high water elevation as a standard practice; however, if the applicant demonstrates that this requirement would be a hardship, the standard may be reduced to 2 feet if all of the following can be demonstrated:
1. Within the 2 foot freeboard area, stormwater storage is available which is equal to or exceeds 50% of the stormwater storage currently available in the basin below the 100-year elevation;
2. A 25% obstruction of the basin outlet over a 24-hour period would not result in more than 1 foot of additional bounce in the basin; and
3. An adequate overflow route from the basin is available that will provide 1 foot of freeboard for the proposed low building opening.

(b) Basement floor elevations must be set to an elevation that meets all of the following criteria:
1. The lowest floor elevation must be at least 4 feet above the currently observed groundwater elevations in the area;

2. The lowest floor elevation must be at least 2 feet above the elevation of any known historic high groundwater elevations for the area. Information on historic high groundwater elevations can be derived from any reasonable sources including piezometer data, soil boring data, percolation testing logs, and the like; and
3. The lowest floor elevation must be at least 2 feet above the 100-year high surface water elevation for the area unless it can be demonstrated that this standard creates a hardship, if the 2- foot standard is determined by the City Council to constitute a hardship, the standard shall be at least 1 foot above the highest anticipated groundwater elevation resulting from a 100-year critical duration rainfall event. The impact of high surface water elevations on groundwater elevations in the vicinity of the structure should take into consideration the site's distance from the floodplain area, the soils, the normal water elevation of surface depressions in the area, the static groundwater table, and historic water elevations in the area. This information shall be provided by a registered engineer or soil scientist.

(12~~6~~) *Impervious surface coverage*. The impervious surface coverage of each lot must not exceed the impervious surface coverage allowed under Ch. 151.

(13~~7~~) *Accommodation of discharge rates*. Storm sewers shall be designed to accommodate discharge rates associated with a 10-year, 24-hour rainfall event in accordance to the Atlas14 data.

(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008)

§ 54.16 STORMWATER AND URBAN RUNOFF POLLUTION CONTROL.

(A) *Illegal disposal, discharges, and connections*.

(1) No person shall intentionally dispose of leaves, grass clippings, dirt, gravel, ~~or~~ other landscape debris, or anything other than stormwater into a street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, or storm drain. The following discharges are exempt from discharge prohibitions established by this section:

(a) Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water;
(b) Discharges or flow from firefighting, and other discharges authorized by the city in writing that are necessary to protect public health and safety;
(c) Discharges associated with dye testing, however this activity requires verbal notification to the city prior to the time of the test.
(d) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency,

provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and further provided that written approval has been granted for any discharges to the storm drain system.

(2) No person shall cause any illicit discharge to enter the city stormwater system. For the purpose of this chapter, ***ILLICIT DISCHARGE*** is as defined in the city's stormwater pollution prevention plan (SWPPP) completed for the city's municipal separate storm sewer system (MS4) permit.

(3) No person shall use any illicit connection to intentionally convey non-stormwater to the city stormwater system.

(a) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under the law or practices applicable or prevailing at the time of the connection.
(b) A person is considered to be in violation of this Chapter if the person connects a line conveying sewage into the storm drain system, or allows such connection to continue.

(4) No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets, or a storm drain system may occur.

(B) *Suspension of MS4 Access* ~~*Maintenance of stormwater facilities.*~~

~~(1) All private stormwater facilities shall be maintained by the property owner in a condition consistent with the performance standards under which they were originally designed. All settled materials from ponds, sumps, grit chambers, and other devices, including settled solids, shall be removed by the property owner and properly disposed of at least once every five years.~~
~~(2) One- to five-year waivers from this requirement may be granted by the Public Works Director when the property owner presents evidence that the facility has additional capacity to remove settled solids in accordance with the original design capacity.~~
~~(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008) Penalty, see § 54.99~~

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

(2) *Suspension Due to the Detection of Illicit Discharges*. Any person discharging to the MS4 in violation of this Chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. The violator may petition the city for a reconsideration and hearing. A

person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the city.

(C) *Monitoring of Discharges*.

(1) *Applicability*. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(2) *Access to Facilities*.

(a) The City of Shakopee or its designee shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the city.

(b) Facility operators shall allow the city or its designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(c) The city or its designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the city to conduct monitoring and sampling of the facility's storm water discharge.

(d) The city or its designee has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(f) Unreasonable delays in allowing the city or its designee access to a permitted facility is a violation of a storm water discharge permit and of this Chapter. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

(g) If the city or its designee have been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify

compliance with this Chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(D) *Watercourse protection*. Every person owning or occupying premises through which a watercourse passes, shall keep and maintain that part of the watercourse within the premises free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or occupant shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(E) *Notification of spills*. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person must immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the city no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three business days of the personal or phone notice. If the discharge of prohibited materials originates from an industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records must be retained for at least three years.

(F) *Enforcement*.

(1) *Notice of Violation*. Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the city may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(a) The performance of monitoring, analysis, and reporting;
(b) The elimination of illicit connections or discharges;
(c) That violating discharges, practices, or operations shall cease and desist;
(d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
(e) Payment of a fine to cover administrative and remediation costs; and
(f) The implementation of source control or treatment BMPs.

(2) *Appeal of Notice of Violation*. Any person receiving a Notice of Violation may appeal the determination to the City Council. The notice of appeal must be received within 15 days after the date of the Notice of Violation. Hearing on the appeal shall take place within 30 days

after the date of receipt of the notice of appeal. The decision of the City Council shall be final.

(3) *Enforcement Measures After Appeal*. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 15 days after the decision of the City Council, the city may enter upon the subject property and take any and all measures necessary to abate the violation and restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or its designated contractor to enter upon the property for the purposes set forth above.

(4) *Cost of Abatement of the Violation*. Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the City Council or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(5) *Injunctive Relief*. If a person has violated or continues to violate the provisions of this Chapter, the city may petition the district court for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

(6) *Compensatory Action*. In lieu of enforcement proceedings, penalties, and remedies authorized by this Chapter, the city may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

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

~~(1)~~(8) *Remedies Not Exclusive*. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.

(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008) Penalty, see § 54.99

§ 54.17 LAWN FERTILIZATION RESTRICTIONS.

(A) *Timing of fertilizer application*. No lawn fertilizer shall be applied when the ground is frozen and in no event during the period of November 15 through April 1 of the succeeding year.

(B) *Impervious surfaces*. Lawn fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surface. Any lawn fertilizer applied, spilled, or deposited, either intentionally or accidentally, on an impervious surface shall be immediately and completely removed.

(C) *Buffer zones*. No lawn fertilizer shall be applied within any established wetland buffer zone or within 20 feet of the edge of any wetland, pond, river, creek, or lake.

(D) *Lawn fertilizer content and application rate.* No lawn fertilizer containing any amount of phosphorus or other compounds containing phosphorus, such as phosphate shall be applied to any turf within the city except when the following conditions apply:

(1) Newly established turf areas for the turf's first growing season; or

(2) In turf areas in which a soil test confirms that the turf area is below phosphorus levels established by the University of Minnesota Extension Service. The fertilizer to be applied shall not contain an amount of phosphorus that exceeds the amount recommended in the soil test evaluation.

(E) *Notice requirement*. Retail businesses selling lawn fertilizer containing phosphorus shall post a notice in a conspicuous location near the law fertilizer notifying customers of the limitation on the use of lawn fertilizer containing phosphorous contained in this ~~subchapter~~Chapter.

(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008)

WETLAND MANAGEMENT

§ 54.30 AREAS AFFECTED.

This ~~subchapter~~Chapter applies to all parcels containing wetlands as defined by the *1987 Corp of Engineers Wetlands Delineation Manual*. This ~~subchapter~~ Chapter also applies to any parcel located near a wetland that would be required by this chapter to have a wetland buffer or wetland buffer setback.

(2013 Code, § 16.12) (Ord. 807, passed 9-25-2008)

§ 54.31 WETLAND ASSESSMENT AND DELINEATION.

(A) A wetland assessment and delineation shall be submitted to the Engineering Division of the city's Public Works Department when required by this chapter for review. The Public Works Director shall recommend approval, approval with conditions, or denial of the wetland assessment and delineation to the Planning Commission. Following Planning Commission review, the wetland assessment and delineation shall be submitted to the City Council for its review along with the Planning Commission's recommendation.

(B) ~~(B)~~ The wetland assessment report and delineation must be performed and prepared by a qualified wetland specialist. Wetland delineation in the report shall be shown on a scaled

drawing that also shows the location of existing and proposed property lines, buildings, and other topographic features of the site. For each wetland delineated in the report, a wetland management class as defined by the State Routine Assessment Method (MNRAM) for evaluating wetland functions - Version 3.1 or later version - must be assigned.
(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008)

§ 54.32 WETLAND BUFFERS.

For any parcel created or redeveloped, a wetland buffer as defined in this ~~subchapter~~ Chapter is required.

(A) ***Required wetland buffer dimensions***.

(1) Wetland buffer dimensions will be based on the wetland's management class as defined by MNRAM.

	Wetland Management Class (MNRAM)	Average Required Buffer Width (feet)	Minimum Required Buffer Width (feet)
A	Exceptional	65	25
B	High	50	25
C	Medium	35	25
C	Low	25	25

(2) The required area of the wetland buffer shall be calculated using the average buffer width as measured from the delineated wetland edge.

(B) ***Required wetland buffer vegetation***. Vegetation within a wetland buffer shall be established and maintained as follows~~.~~:

(1) The first 25 feet of the wetland buffer as measured from the wetland delineation or public waters wetland ordinary high water level (OHWL) must not be disturbed during project construction (i.e. cleared or graded), with the exception of temporary disturbances for public roads and utility construction. This area must be protected from disturbance with temporary fencing prior to construction. If it is necessary to establish acceptable vegetation within the area so that it is in compliance with the vegetation requirements of this ~~subchapter~~Chapter, vegetation may be removed and replaced, and site soils preparation work may be performed within this area.

(2) Where acceptable natural vegetation exists within the wetland buffer, the retention of such vegetation in an undisturbed state is required unless the applicant receives approval from the Public Works Director to replace such vegetation. A wetland buffer is considered to have acceptable natural vegetation if it has a continuous, dense layer of perennial grasses, or an overstory of trees or shrubs that have been uncultivated or unbroken for at least five consecutive years. The city may determine existing vegetation to be unacceptable if the wetland buffer has undesirable characteristics such as noxious or invasive plant species or topography that channelizes the flow of runoff.

(3) (a) In cases where the wetland buffer does not contain vegetation or has been cultivated or otherwise disturbed within five years of the application, the wetland buffer area must be

replanted with native seed mix approved by the Public Works Director and maintained until it is established.

(b) The proposed types of wetland buffer plantings, proposed maintenance, and monitoring activities and schedule must be identified on the application. Any vegetation planted within the wetland buffer are independent of any landscaping that may be required elsewhere on the property by the city.

(c) During the first 2 full growing seasons, the owner must replant any wetland buffer vegetation that does not survive. After this time, the owner shall remain responsible for re-seeding or replanting vegetation within the wetland buffer if it changes at any time due to human intervention or activities.

(C) ***Wetland buffer easements and markers***. When a wetland buffer is required pursuant to this ~~subchapter~~Chapter, the applicant shall prior to issuance of any building permits by the city:

(1) Submit to the city for its approval a conservation easement in favor of the city for protection of the wetland buffers and wetlands on the property, or include the wetland buffer and wetlands in an outlot dedicated to the city as part of the plat. The conservation easement shall legally describe the boundaries of the wetland or public waters wetland and the wetland buffer and identify the marker locations;

(2) Record the conservation easement or final plat with the county and submit evidence thereof to the city;

(3) Wetland buffers shall be marked to clearly designate their boundaries. At least 1 marker shall be required on each lot. There shall be at least 1 marker every 200 feet along the edge of the wetland buffer; and

(4) A marker shall consist of a post and a sign indicating the presence of a wetland buffer. The applicant will be required to furnish and install 4 by 4 inch sign posts to a height of 5 feet above finished grade. The city will furnish and install the signs. If the applicant does not install the posts, the city will furnish and install them. Fees incurred by the city for post furnishing and installation will be paid by the applicant.

(D) ***Wetland buffer alterations***.

(1) Alterations including building or placement of structures, storage of materials, paving, mowing, plowing, introduction of noxious vegetation, cutting for non-management purposes, dredging, filling, mining, dumping, grazing livestock, agricultural production, yard waste disposal, or fertilizer application, are prohibited within the wetland buffer.

(2) The following activities shall be permitted in the wetland buffer and shall not constitute prohibited alterations:

(a) Removal of noxious vegetation such as, but not limited to, European buckthorn, purple loosestrife, and reed canary grass;

(b) Installation of new plantings that enhance the natural vegetation;

(c) Selective clearing or pruning of trees or vegetation that are dead, diseased, or pose similar hazards;
(d) Use and maintenance of 1 unimproved access strip through the wetland buffer for recreational access to a watercourse, where permitted. The strip shall be no greater than 20 feet in width;
(e) Construction, maintenance, repair, reconstruction, or replacement of existing and future public roads, utilities, or drainage systems within a wetland buffer, so long as any adverse impacts of the construction and installation on the function of the wetland buffer have been avoided or minimized to the extent practical and the activity has been approved by the city;
(f) Construction of individual sewage treatment systems (ISTS) so long as the vegetation growing on the system is maintained in accordance with this ~~subchapter~~ Chapter, the area for the ISTS is not credited as wetland buffer area, and the edge of the ISTS is located at least 35 feet from the delineated wetland edge;
(g) Clearing, grading, and seeding if part of a wetland replacement plan approved by the city;
(h) Maintenance, repair, or replacement of trails; and
(i) Placement or maintenance of ponds or other stormwater treatment facilities, so long as the area of the pond is not credited as wetland buffer area and the embankment of the pond is located at least 35 feet from the delineated wetland edge.

(E) ***Exceptions***.

(1) Wetland buffers and structure setbacks are not requited for any residentially zoned lot of record as of the effective date of this chapter.

(2) Wetland buffers and structure setbacks are not required for any wetland that qualifies for a de minimus exemption under the Wetland Conservation Act.

(3) Wetland buffers and structure setbacks are not required for any wetland qualifying for an incidental wetland exemption under the Wetland Conservation Act.

(2013 Code, § 16.11)

§ 54.33 STRUCTURE SETBACKS.

(A) Parcels that are newly created or redeveloped after the effective date of this chapter are required to have a structure setback from the wetland buffer for all new structures.

(B) The structure setback shall be measured from outer edge of the wetland buffer.

(C) For residential parcels, a 30-foot front and rear yard structure setback and a 10-foot side yard structure setback is required from the wetland buffer.

(D) All nonresidential parcels shall be required to provide a 10-foot structure setback for front, rear and side yards.

(2013 Code, § 16.12) (Ord. 807, passed 9-25-2008)

EROSION AND SEDIMENT CONTROL

§ 54.45 EROSION CONTROL PLAN.

(A) An erosion control plan shall be submitted to the Engineering Division of the city's Public Works Department when required by this chapter along with a grading permit application. All applications for a grading permit shall be accompanied by a processing and approval fee as set by the city fee schedule.

(B) The erosion control plan shall contain all of the following with respect to conditions existing on site during construction and after final structures and improvements have been completed.

(1) A description of and specifications for sediment retention and settling devices;
(2) A description of, specifications for, and detail plates for surface runoff and erosion control devices;
(3) A description of vegetative measures;
(4) A detailed timetable for restoring all disturbed areas;
(5) A graphic representation of the location of all specified erosion and sediment control devices;
(6) An implementation schedule for installing and subsequently removing devices described above;
(7) A maintenance schedule for all sediment and erosion control devices specified;
(8) An estimate of the costs to implement all final and temporary erosion and sediment control measures;
(9) An information sheet on the parties responsible for constructing and maintaining the erosion control measures as shown on the erosion control plan. The information sheet should contain the phone numbers and addresses of at least 2 persons and indicate how they can be contacted at all times (days, nights, weekends, and the like) regarding repairing and maintaining the erosion control measures;
(10) The erosion control plan must contain details to specify which erosion and sediment control facilities are permanent and which are temporary; and
(11) If required, a nationwide pollutant discharge elimination system (NPDES) general stormwater permit must be obtained from the State Pollution Control Agency prior to commencing construction activities. The associated stormwater pollution prevention plan (SWPPP) should be included in the erosion control plan and approved by the Public Works Director prior to construction. A copy of the NPDES permit must be provided to the city prior to construction.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.46 PROCESS.

Erosion control plans meeting the requirements of this chapter shall be submitted to the Engineering Division of the city's Public Works Department for the Public Works Director's review and approval. The Public Works Director shall recommend approval, approval with conditions, or denial of the erosion control plan to the Planning Commission. Following Planning

Commission review, the erosion control plan shall be submitted to the City Council for its review along with the Planning Commission's recommendation.
(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.47 IMPLEMENTATION OF AN EROSION CONTROL PLAN.

Prior to the start of any earthwork activities, the permittee must have in place and functional the erosion controls as outlined on the approved erosion control plan. Additional erosion control measures may be required as directed by the Public Works Director.

(A) No earth moving activities shall commence until the erosion controls have been field inspected and approved by the Public Works Director.

~~(A)~~(B) At a minimum, the permittee must meet the Erosion Control specifications set forth within the city's Design Criteria and observe the standards established in the NPDES Construction General Permit requirements.

~~(B)~~(C) The permittee must maintain the erosion control on the site to the process. If the erosion control is not being maintained to the Director's satisfaction, the city may perform remedial work on the site as outlined in this ~~subchapter~~Chapter.

~~(C)~~(D) All erosion control systems must be maintained by the permittee in an acceptable condition until turf is established or structural surfaces are constructed to protect the soil from erosion.
(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.48 FINANCIAL SECURITY.

(A) Upon approval of the erosion control plan by the City Council, the applicant shall submit a letter of credit, or cash escrow, to cover 125% of the amount of the established cost of complying with the erosion control plan. This financial guarantee shall be in a form acceptable to the city and may be incorporated into the financial guarantee required for grading activities.

(B) The city may draw on the letter of credit or cash escrow after providing the permittee with at least five business days' notice.

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

(1) The permittee ceases land-disturbing activities or filling and abandons the work site prior to completion of the grading plan;
(2) The permittee fails to conform to the approved grading or erosion control plan;
(3) The techniques utilized under the erosion control plan fail within 1 year of installation; or;
(4) The Public Works Director has determined that additional action on the site is necessary to prevent excessive erosion from occurring.

(D) The city may use the funds from the financial security to reimburse itself for any remedial work undertaken by the city or its contractor, and for any administrative costs incurred in the process of performing the remedial work including, but not limited to, staff time, and attorney's fees.

(E) The financial security deposited with the city for faithful performance of the grading and erosion control work shall be released 1 year after the ground cover and other erosion control measures have been installed. All temporary erosion control measures, such as silt fences and hay bales, must be removed from the site prior to the city releasing the financial security.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.49 INSPECTION OF EROSION CONTROL PLAN.

The city will make periodic inspections of the site to ensure compliance with the erosion control plan.

(A) The permittee or his/her agent shall ensure that a trained and certified person will regularly inspect the construction site at least once every seven days until final stabilization and within 24 hours of a rainfall event of one-half inch or greater in a 24 hour period. All inspection and maintenance activities conducted on the site during construction must be recorded in writing and retained within the erosion control plan and provided to the city. Records of each inspection and maintenance activity shall include the following:

1. Date and time of inspection;
2. Name(s) of persons conducting the inspection;
3. Findings of inspections, including recommendations for corrective actions;
4. Corrective actions taken, including the dates, times and the name of the party completing the corrective action;
5. Date and the amount of rainfall events that are greater than one-half inch in a 24 hour period; and
6. Documentation of any changes made to the erosion and sediment control plan.

(B) Site and BMP Maintenance. Prior to any construction, the developer shall provide the Public Works Director with a schedule for erosion and sediment control inspection and maintenance, including schedules for street cleaning, and street sweeping. All site and BMP maintenance activities must comply with the requirements of the NPDES construction general permit. The applicant shall investigate and comply with the following BMP maintenance requirements:

1. Silt fence: All silt fences must be repaired, replaced or supplemented when they become nonfunctional or the sediment reaches one-half (1/2) of the height of the fence. Repairs shall be made by the end of the next business day after discovery or as soon as field conditions allow access.

2. Temporary Sediment Basins: Temporary sedimentation basins must be drained and the sediment must be removed when the depth of the sediment collected in the basin

reaches one-half the storage volume. Drainage and removal must be completed within 72 hours of discovery or as soon as field conditions allow access.

3. Surface Waters and Conveyance Systems: Surface water, including drainage ditches and conveyance systems, must be inspected for visible signs of sediment being deposited by erosion. The applicant must remove all sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems and must restabilize the areas of exposed soil as a result of sediment removal. The removal and stabilization must take place within seven days of discovery unless legal, regulatory or physical access constraints prevent remediation. In the event of an access constraint, the applicant shall use all reasonable efforts to obtain access. If access is precluded, removal and stabilization must take place within seven calendar days of obtaining access. The applicant is responsible for contacting all local, regional, state and federal authorities and obtaining any required permits prior to conducting any work.

4. Streets and Paved Surfaces: Where vehicle traffic leaves any part of the site, the exit locations must be inspected for visible signs of off-site sediment tracking onto paved surfaces. The construction entrance pad BMP must remain clean and tracked sediment must be removed from all off-site paved surfaces as soon as possible or within 24 hours of discovery.

5. General Maintenance: The applicant shall be responsible for the operation and maintenance of temporary and permanent water quality management BMPs, as well as erosion prevention and sediment control BMPs for the duration of the construction work on the site. The applicant remains responsible until another party has assumed control over all areas of the site that have not established final stabilization and a Notice of Termination (NOT) has been submitted to the Minnesota Pollution Control Agency.

6. Infiltration Areas: All infiltration areas must be inspected to ensure that no sediment from ongoing construction activities is reaching the infiltration area and these areas are protected from compaction caused by construction equipment driving across the infiltration area.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.50 APPLICATION REVIEW AND INSPECTION FEES.

(A) The city shall charge an application review fee for the review of the erosion control permit application and the erosion control plan. As part of this review, the city will review the permittee's as-built survey submitted after the completion of grading activities to ensure that it conforms to the overall erosion control plan for the area. The application fee shall be set by the city fee schedule. If this fee is not paid with 45 days, the fee may be taken from the financial security provided by the applicant.

(B) (1) An inspection fee will be charged for any inspections of the site by the city that are needed to review corrective erosion control work or to follow up on previously incomplete work. This inspection fee will be deducted from the financial security.

(2) The amount will be set by the city fee schedule. If this fee is not paid within 45 days, the fee may be taken from the financial security posted by the applicant.

(2013 Code, § 16.13)

§ 54.51 NOTIFICATION OF FAILURE OF EROSION CONTROL PLAN.

The city shall notify the permittee of the failure of the erosion control measures that have been constructed. The notification will be by phone or fax to the parties listed on the information sheet required by this ~~subchapter~~Chapter. The city, at its discretion, may begin remedial work within 48 hours after notification has been provided.
(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.52 EROSION OFF-SITE.

If erosion breaches the perimeter of the site, the permittee shall immediately develop a cleanup and restoration plan, obtain a 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. In no case, unless written approval is received from the Public Works Director may more than 7 calendar days pass without any corrective action being taken. If at the discretion of the city, the permittee does not repair the damage caused by the erosion, the city may perform the remedial work required, after notice is provided to the permittee.
(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.53 EROSION INTO STREETS, WETLANDS, OR WATER BODIES.

If eroded soils enter, or entrance appears imminent into streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The permittee shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations. If, at the discretion of the city, the permittee does not repair the erosion, the city may perform the remedial work required, after notice is provided to the permittee.
(2013 Code, § 16.13)

§ 54.54 FAILURE TO DO CORRECTIVE WORK.

When a permittee fails to conform to any provision of this ~~subchapter~~ Chapter within the time stipulated, the city may take the following actions:

(A) Withhold the scheduling of inspections;

(B) Withhold the issuance of a certificate of occupancy;

(C) Issue a Notice of Violation. When the city determines that an activity is not being carried out in accordance with the requirements of this Chapter, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

a. The name and address of the owner or applicant;
b. The address when available or a description of the land upon which the violation is occurring;
c. A statement specifying the nature of the violation;
d. A description of the remedial measures necessary to bring the development activity into compliance with this Chapter and a time schedule for the completion of such remedial action(s);
e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed, and;
f. A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 15 days of service of the notice of violation. Service may be accomplished by mail or by personal delivery of the notice.

(~~C~~D) Issue a stop-work order;

(~~D~~E) Direct the correction of the deficiency by city forces or separate contract. The issuance of an erosion control permit constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies with respect to erosion control. All costs incurred by the city in correcting erosion control deficiencies, including administrative expenses, shall be reimbursed by the permittee. If payment is not made within 30 days after an invoice is issued, the city may draw from the financial security, if the financial security is of an insufficient amount, the city may assess the remaining amount against the property. As a condition of the permit, the owner shall be required to waive notice of any assessment hearing to be conducted by the city, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of M.S. § 429.081, as it may be amended from time to time, to challenge the amount or validity of the assessment.

(2013 Code, § 16.13) (Ord. 807, passed 9-25-2008)

§ 54.99 PENALTY.

(A) A person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties imposed by state statutes for misdemeanor offenses.

(2013 Code, § 16.13)

(B) For the first 12 months following the effective date of § 54.15 through 54.17, no penalty shall attach to a violation of § 54.15 through 54.17. Thereafter, a person violating any provision of § 54.15 through 54.17 shall be guilty of a petty misdemeanor and upon conviction shall be subject to the penalties imposed by state statutes for petty misdemeanor offenses.

(2013 Code, § 16.11) (Ord. 807, passed 9-25-2008)

Section 2. Effective Date. This ordinance becomes effective from and after its passage and publication.

Adopted in regular session of the City Council of the City of Shakopee, Minnesota held this 17 day of October, 2017.

_____
Mayor of the City of Shakopee

Attest:

_____,
City Clerk

Published in the Shakopee Valley News on the _____ day of _____, 2017.