STORM WATER PROTECTION

(A) Purpose. The purpose of this section is to control, reduce, and to the extent possible, eliminate storm water pollution along with soil erosion and sedimentation within the city. It establishes standards and specification for conservation practices and planning activities, which minimize storm water pollution, soil erosion, and sedimentation.

(B) Scope. The provisions of the waste controls and illicit discharge and inspections and enforcement portions of this section apply to all areas within the city at all times. All other provisions of this section shall apply to all sites on which a land disturbance activity occurs or has occurred since the date of the enactment of this section.

(C) Definitions. Unless specifically defined below, the words or phrases used in this section 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 section, certain terms and words are hereby defined as follows:

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.

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.

ILLICIT DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system unless such discharge is from:

(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) Flow from firefighting, and other discharges specified in writing by the City

Engineer as being necessary to protect public health and safety.

(c) Discharges associated with dye testing. However, this activity requires a verbal notification to the City Engineer prior to the time of the test.

(d) Any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

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. Within the context of this section, LAND DISTURBANCE ACTIVITY does not mean:

(a) Minor land disturbance activities, such as home gardens and an individual's home landscaping, repairs, and maintenance work, which will not result in sediments entering the storm water system;

(b) Activities involving movement of less than 200 cubic yards of soil and disturbing a surface area less than 10,000 square feet that will not result in sediments entering waters of the state;

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

(d) 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.

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. PERMIT shall refer to the most current general permit issued by the MPCA or the permit issued for a specific project, if applicable.

OWNER. Any person holding title to or having a divided or undivided interest in the property or site.

OWNER REPRESENTATIVE. A contractor or other agent of an owner who is responsible for implementation of a Small Site Erosion Control Plan or Storm Water Pollution Prevention Plan. The OWNER REPRESENTATIVE shall be as identified on the application for a NPDES Storm Water Permit for Construction Activities or watershed district permit. An OWNER

REPRESENTATIVE is responsible to inform the owner of the owner's financial obligations in the event the representative fails to properly implement a Small Site Erosion Control Plan or Storm Water Pollution Prevention Plan.

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

SMALL SITE. A site on which a land disturbance activity occurs involving the disturbance of less than one acre of surface area.

SMALL SITE EROSION CONTROL PLAN. Erosion control plan developed in accordance with the requirements of the watershed district rules pertaining to erosion control on construction sites smaller than one acre.

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 Construction Activities.

WATERSHED DISTRICT. The Heron Lake Watershed District or Okabena-Ocheda Watershed District, whichever district has jurisdiction over the site.

(D) Waste controls and illicit discharge.

(1) Illegal disposal.

(a) No person shall throw, deposit, place, leave, maintain, or 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, flood control channel, canal, 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.

(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 section shall apply to both actual and potential discharges.

(b) Storage of materials, machinery, and equipment.

1. 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.

2. 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.

(c) Removal of debris and residue. 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 not be place in a trash container.

(E) Permanent storm water management systems and erosion and sediment control.

(1) No land disturbing activity on any site other than a small site shall be conducted prior to obtaining coverage under the NPDES General Storm Water Permit for Construction Activities or a NPDES Storm Water Permit for Construction Activities specific to the project has been issued.

(2) Erosion and sediment controls on all sites other than small sites shall, at a minimum, meet the requirements and provisions defined in the NPDES Storm Water Permit for Construction Activities.

(3) (a) A permanent storm water management system required by the NPDES Storm Water Permit for Construction Activities shall be provided.

(b) A permanent storm water management system for land disturbing activities that are not redevelopment shall, at a minimum, comply with the requirements and provisions pertaining to permanent storm water management systems in the NPDES Storm Water Permit for Construction Activities.

(c) A permanent storm water management system required by the NPDES Storm Water Permit for Construction Activities for land disturbing activities that are redevelopment shall comply with the requirements and provisions pertaining to permanent storm water management systems in the NPDES Storm Water Permit for Construction Activities except that the treatment systems shall be designed to achieve a net reduction from pre-project conditions (on an annual average basis) of:

1. Storm water discharge volume, unless precluded by the storm water management limitations as set forth in the NPDES Storm Water Permit for Construction Activities.

2. Storm water discharges of TSS.

3. Storm water discharges of TP.

(d) The net reduction from pre-project conditions required for redevelopment will be considered to be achieved by:

1. Including all or a portion, but not less than 10%, of existing impervious areas in the design of a required permanent storm water treatment system; or

2. Increasing the water quality volume, as defined in the NPDES Storm Water Permit for Construction Activities, to not less than 1.1 inches.

(4) In lieu of providing a permanent storm water management system meeting the requirements in § 54.10(E)(3), a permanent storm water management system meeting the following requirements may be provided:

(a) Storm water volume reduction performance goals.

1. New development volume control. For new, nonlinear developments that create more than one acre of new impervious surface on sites without restrictions, storm water runoff volumes will be controlled and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from all impervious surfaces on the site.

2. Redevelopment volume control. Nonlinear redevelopment projects on sites without restrictions that create one or more acres of new and/or fully reconstructed impervious surfaces shall capture and retain on site 1.1 inches of runoff from the new and/or fully reconstructed impervious surfaces.

3. Linear development volume control.

A. Linear projects on sites without restrictions that create one acre or greater of new and/or fully reconstructed impervious surfaces, shall capture and retain the larger of the following:

i. 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the site.

ii. 1.1 inches of runoff from the net increase in impervious area on the site.

B. Mill and overlay and other resurfacing activities are not considered fully reconstructed.

4. Flexible treatment options for sites with restrictions (as found in the MIDS Design Sequence Flowchart).

A. Applicant shall fully attempt to comply with the appropriate performance goals described above. Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site. If full compliance is not possible due to any of the factors listed below, the applicant must document the reason. If site constraints or restrictions limit the full treatment goal, the following flexible treatment options shall be used:

B. Applicant shall document the flexible treatment options sequence starting with Alternative #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed.

C. Applicants must document the specific reasons why Alternative #1 cannot be met based on the factors listed below. If Alternative #2 cannot be met then Alternative #3 shall be met. Applicants must document the specific reasons why Alternative #2 cannot be met based on the factors listed below. When all of the conditions are fulfilled within an alternative, this sequence is completed.

D. Volume reduction techniques considered shall include infiltration, reuse & rainwater harvesting, and canopy interception and evapotranspiration and/or additional techniques included in the MIDS calculator and the Minnesota Stormwater Manual. Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.

E. Factors to be considered for each alternative will include:

i. Karst geology.
ii. Shallow bedrock.
iii. High groundwater.
iv. Hotspots or contaminated soils.
v. Drinking water source management areas or within 200 feet of

drinking water well.
vi. Zoning, setbacks or other land use requirements.
vii. Excessive cost.
viii. Poor soils (infiltration rates that are too low or too high, problematic urban soils).

F. Alternative #1. Applicant attempts to comply with the following conditions:

i. Achieve at least 0.55" volume reduction from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.

ii. Remove 75% of the annual TP load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.

iii. Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.

G. Alternative #2. Applicant attempts to comply with the following conditions:

i. Achieve volume reduction to the maximum extent practicable.

ii. Remove 60% of the annual TP load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site.

iii. Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.

H. Off-site Treatment.

i. Mitigation equivalent to the performance of 1.1 inches of volume reduction for new development or redevelopment as described above in this section, (including banking or cash) can be performed off-site to protect the receiving water body. Off-site treatment shall be achieved in areas selected in the following order of preference:

((A)) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.

((B)) Locations within the same Department of Natural Resource (DNR) catchment area (Hydrologic Unit 08) as the original construction activity.

((C)) Locations within the next adjacent DNR catchment area upstream.

((D)) Locations anywhere within the community's jurisdiction.

ii. Mitigation projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP.

iii. Routine maintenance of structural stormwater BMPs already required by this section cannot be used to meet mitigation requirements of this Part.

iv. Mitigation projects shall be completed within 24 months after the start of the original construction activity.

v. The owner of the mitigation project site shall be responsible for long-term maintenance of the mitigation project unless otherwise approved in a written agreement between the City and the owner of the construction activity site. Such an agreement shall be perpetual and recorded in the Office of the County Recorder.

vi. Any payment received from the owner and/or operator of a construction activity for mitigation purposes in lieu of the owner or operator of that construction activity meeting the conditions for post-construction stormwater management shall be applied to a public stormwater project that complies with the mitigation requirements of this subsection.

(b) Site design and MIDS calculator. [The MIDS Design Sequence Flowchart can be found in the Minnesota Stormwater Manual: http://stormwater.pca.state.mn.us/]

1. Better site design. Wherever possible, new development projects shall be designed using the better site design techniques of the current version of the Minnesota Stormwater Manual available at: http://stormwater.pca.state.mn.us/index.php/Better_site_design.

2. MIDS calculator. Final site design and choice of storm water treatment practices shall be based on outcomes of the MIDS calculator in the Minnesota Stormwater Manual and shall meet the performance goals outlined above in this section. The MIDS calculator is available at http://stormwater.pca.state.mn.us/index.php/Calculator.

(5) Erosion control on small sites shall, at a minimum, meet the requirements of the rules of the watershed district. No land disturbing activity on a small site shall be conducted before a watershed district permit has been applied for.

(F) Storm water controls. 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.

(G) Maintenance of privately-owned storm water management systems. All storm water management systems that are owned by an entity other than the city and discharge within the city must be designed to minimize the need of maintenance, to provide easy vehicle and personnel access for maintenance purposes and be structurally sound. It shall be the responsibility of the owner to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes. All such systems must have an operation and maintenance plan that ensures continued effective removal of the pollutants carried in storm water runoff. All such systems shall be operated and maintained in accordance with the plan.

(H) Plan review.

(1) Prior to conducting any land disturbing activity on a small site, the owner of the site, or a representative of the owner, shall submit a Small Site Erosion Control Plan to the city and a copy of the application for a watershed district permit. The plan shall include all requirements of the rules of the watershed district.

(2) Prior to conducting any land disturbing activity on any site other than a small site, the owner of the site, or a representative of the owner, shall submit a Storm Water Pollution Prevention Plan to the city and the application for a NPDES Storm Water Permit for Construction Activities. The plan shall include all requirements of the NPDES Storm Water Permit for Construction Activities.

(3) The SWPPP or Small Site Erosion Control Plan and applicable permit application for any land disturbing activity that requires a building permit or other development permit shall be submitted with the application for such a permit. The permit application shall be considered incomplete until a complete SWPPP or Small Site Erosion Control Plan is submitted.

(4) 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 working days. Any Small Site Erosion Control Plan may be reviewed by the City Engineer. The Watershed District maybe notified of any Small Site Erosion Control Plan that is found to not meet the requirements of the rules of the Watershed District.

(5) Modifications to a SWPPP or Small Site Erosion Control Plan shall be submitted to the city for review.

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

(1) 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 section.

(2) The city may conduct inspections of all privately-owned storm water treatment systems and devices at any reasonable time.

(3) The city may enter upon any premises subject to regulation under this section as often as may be necessary to determine compliance with this chapter.

(4) An owner shall promptly allow the city and its authorized representatives, upon presentation of credentials to:

(a) Enter upon any premises for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys as;

(b) Bring such equipment upon any premises 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 an NPDES Storm Water Permit;

(d) Inspect storm water pollution control measures; and/or

(e) Sample and monitor any items or activities pertaining to storm water discharges.

(5) 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.

(6) If a facility owner or operator has security measures in force which require proper identification and clearance before entry into its premises, the facility owner or operator shall make the necessary arrangements to allow access to representatives of the city.

(7) If the city has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this section 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.

(J) Enforcement.

(1) Actions to ensure compliance until final stabilization has been achieved. The city may take the following action in the event of a failure by owner or owner representative to meet the terms of this section:

(a) The City Engineer may issue a written stop-work order upon his or her determination that construction, excavation or any other activity regulated by this section is taking place in violation of an NPDES Storm Water Permit for Construction Activities, a watershed district permit, or this section. The stop-work order shall detail the violations, the 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 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 the City Clerk. If payment is not made within 30 days, payment may be made from any of the owner's financial securities.

(b) The Clerk shall, on or before September 1 next 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.

(2) Bring actions against the owner to require maintenance and repair of any privately-owned storm water management system.

(K) Response time and notification.

(1) For all 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.

(b) 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 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 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.

(c) 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.

(d) 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, 48 hours after notification by the city or 72 hours after the failure of erosion control measures, whichever is less, the city at its discretion, may begin corrective work. 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) 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:

1. Within 365 calendar days of the owner's receipt of a notification to remove accumulated sediment from a retention basin;

2. 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. Such notification shall be mailed on or before October 1 of each year; and/or

3. 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.

(3) Emergency action. Notwithstanding any other provisions of the section, 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.