

Section 546 – Zoning: storm water management

546.01 Purpose.

- 1) Purpose. The general purpose of this section is to establish regulatory requirements for land development and land disturbing activities aimed at minimizing the threats to public health, safety, public and private property and natural resources within the community resulting from construction site erosion and post-construction storm water runoff.
- 2) Findings. The City of Hopkins finds that uncontrolled storm water runoff and construction site erosion from land development and land disturbing activities can have significant adverse impacts upon local and regional water resources, diminishing the quality of public health, safety, public and private property and natural resources of the community.
- 3) This ordinance is intended to meet the current construction site erosion and sediment control and post-construction storm water management regulatory requirements for construction activity and small construction activity (NPDES Permit) as defined in 40 CFR pt. 122.26(b)(14)(x) and (b)(15), respectively.
- 4) Statutory Authorization. This section is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and 462; Minnesota Rules, Parts 6120.2500-6120.3900, Minnesota Rules Chapters 8410, 8420 and 70510.0210.

546.02. Incorporation by Reference. The City of Hopkins Engineering Design Guidelines, dated December 2002, as it may be amended from time to time, is hereby incorporated into this ordinance as if fully set forth herein. The Guidelines shall serve as the official guide for storm water principles, methods, and practices for proposed development and redevelopment activities.

546.03. Applicability. Subdivision 1. Every application for a conditional use permit that involves construction of a building, subdivision approval or a permit to allow land disturbing activities must submit a storm water management plan to the planning department. No conditional use permit, subdivision approval or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. The provisions of Section 546.09 of this ordinance apply to all land, public or private, located within the City of Hopkins.

Subd. 2. Minnesota Pollution Control Agency (MPCA). The MPCA is the permitting authority for land disturbing activities requiring an NPDES Permit for construction activity, including the requirements for developing and implementing a SWPPP. Where required, the NPDES Permit is in addition to permits required by the City of Hopkins.

Subd. 3. Exemptions. The provisions of this ordinance do not apply to:

- a) Any part of a subdivision if a plat for the subdivision has been approved by the City Council on or before the effective date of this ordinance;
- b) Any land disturbing activity for which plans have been approved by the watershed management organization and the City of Hopkins within six months prior to the effective date of this ordinance;
- c) A lot for which a conditional use permit or building permit has been approved on or before the effective date of this ordinance;
- d) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;
- e) Waiver of plat, re-plat, plating of a developed lot, or a single lot division;
- f) Construction of a single to four-family home;
- g) An addition to an existing building that does not require a conditional use permit;
- h) Construction of a detached accessory building that does not require a conditional use permit;
- i) Emergency work to protect, life, limb or property; or,
- j) The improvements involve the enlargement of a building that is less than 10 percent of the total floor area of the existing building or 5,000 square feet, whichever is less.

546.04 Waiver. The City Council, upon recommendation of the Planning Commission, may waive any requirement of this ordinance upon making a finding that compliance with the requirement will involve an unnecessary hardship or the project does not have any significant alterations of existing storm water conditions and the waiver of such requirement will not adversely affect the standards and requirements set forth in Section 546.05. The City Council may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements.

546.05. Application. Subdivision 1. A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the planning department, and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district and adequate evidence showing that the proposed use will conform to the standards set forth in this ordinance. Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plan reviewed by the appropriate department of the City.

Subd. 2. Required information. Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the planning department and shall be accompanied by a receipt from the City evidencing the payment of all required fees for processing and approval as set forth in Section 546.06 subdivision 5. A bond will be required by Section 546.06 subdivision 4 in the amount to be calculated in accordance with that section if the improvements have not been completed at the time the certificate of occupancy has been completed. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum the scale shall be 1 inch equals 100 feet.

Subd. 3. Unless otherwise exempted by this ordinance, an application for storm water management approval shall include the following as a condition for its consideration:

- a) A Storm Water Management Plan;
- b) A Maintenance Agreement.

The storm water management plan shall be prepared to meet the requirements of Section 546.08 of this ordinance as well as the requirements within the City's Engineering Design Guidelines; the maintenance agreement shall be prepared to meet the requirements of Section 546.07 of this ordinance.

In lieu of preparation of a storm water management plan, major single-family residential projects and minor expansion projects may install a rain garden or similar storm water improvement as described in the City's Engineering Design Guidelines.

546.06 Process. Subdivision. 1. Storm water management plan meeting the requirements of Section 546.05 shall be submitted by the planning department to the Planning Commission for review in accordance with the standards of 546.08. The Commission shall recommend approval, recommend approval with conditions or recommend denial of the storm water management plan. Following Planning Commission action, the storm water management plan along with the conditional use permit and/or subdivision approval shall be submitted to the City Council at its next available meeting. City Council action on the storm water management plan must be accomplished within 120 days following the date the application for approval is filed with the planning department unless there has been a delay caused or requested by the applicant.

Subd. 2. Duration. Approval of a plan submitted under the provisions of this ordinance shall expire one year after the date of approval unless construction has commenced in accordance with the plan; however, if prior to the expiration of the approval the applicant makes a written request to the planning department for an extension of time to commence construction, setting forth the reasons for the requested extension, the planning department may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the planning department within 15 days. The planning department shall make

a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

Subd. 3. Conditions. A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this ordinance are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure buffering, and require the conveyance to the City of Hopkins or other public entity of certain lands or interests therein.

Subd. 4. Performance bond. Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. If the improvements have not been constructed at the time the certificate of occupancy is issued, the applicant shall provide a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with Section 546.07.

The adequacy, conditions and acceptability of any agreement and bond shall be determined by the City Council or any official of the City of Hopkins as may be designated by resolution of the City Council.

Subd. 5. Fees. All applications for storm water management plan approval shall be accompanied by a process and approval fee as per Section 10 of the City Code.

546.07. Storm Water Treatment Maintenance Plan and Agreement. Subdivision 1. Maintenance Agreement. The responsible party shall enter into a maintenance Agreement with the City that documents all responsibilities for operation and maintenance of all storm water treatment practices. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. The maintenance agreement shall be executed and recorded against the parcel.

The storm water maintenance agreement shall be in a form approved by the City and shall describe the inspection and maintenance obligations of this section and shall, at a minimum:

- a) Designate the responsible party, which shall be permanently responsible for maintenance of the structural or nonstructural measures.
- b) Pass responsibility for such maintenance to successors in title.
- c) Grant the City and its representatives the right of entry for the purposes of inspecting all storm water treatment practices as described in Section 546.10 and Section 546.11.

- 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 as described in Subd. 4 below.
- e) Include a maintenance plan that contains, but is not limited to, the following:
 - (1) Identification of all structural storm water treatment practices.
 - (2) A schedule for regular inspection, 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 for each practice.
- f) Identify a schedule and format for reporting compliance with the maintenance plan to the City.

Subd. 2. Inspection of storm water facility. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the National Pollutant Discharge Elimination System (NPDES) storm water permit; and, joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater and material or water in drainage control facilities; and, evaluating the condition of drainage control facilities and other storm water treatment practices.

When any new storm water treatment practice is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the City has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

The director of public works, or designated representative, shall inspect all storm water management facilities during construction, during the first year of operation and at least once every five years thereafter. The inspection records will be kept on file at the public works department for a period of six years. It shall be responsibility of the applicant to obtain any

necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.

Subd. 3. Records of installation and maintenance activities. The responsible party shall make records of the installation and of all maintenance and repairs of the storm water treatment practices, and shall retain the records for at least three (3) years. These records shall be made available to the City during inspection of the storm water treatment practice and at other reasonable times upon request.

Subd. 4. Failure to maintain practices. If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the City, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the storm water treatment practice in proper working condition. In the event that the storm water treatment practice becomes a danger to public safety or public health, the City shall notify the responsible party in writing. Upon receipt of that notice, the responsible party shall have 30 days to perform maintenance and repair of the facility in an approved manner. After proper notice, the City may specially assess the owner(s) of the storm water treatment practice for the cost of repair work and any penalties; and, the cost of the work shall be assessed against the property and collected along with ordinary taxes by the county.

546.08. Approval standards. Subdivision. 1. No storm water management plan which fails to meet the standards contained in this section shall be approved by the City Council.

Subd. 2. Projects with land disturbing activities one acre or greater shall meet the current requirements for storm water management as specified by the City's Engineering Design Standards and MPCA Construction General Permit. All land disturbing activities within the City disturbing less than one acre and down to 10,000 square feet or which will result in more than 200 cubic yards of cut or fill are only required to follow the Construction Site Storm water Runoff Control standards set within the City's Engineering Design Guidelines. The standards should follow the following requirements:

- a) Erosion Control
- b) Sediment Control Practices
- c) Temporary Sediment Basins
- d) Dewatering and Basin Draining
- e) Inspection and Maintenance
- f) Pollution Management Measures/Construction Site Waste Control
- g) Final Stabilization
- h) Training

Subd. 3. Performance criteria for storm water management. Unless determined by the City to be exempt or granted a waiver, all site designs shall establish storm water management practices to control the peak flow rates and pollutants of storm water discharge associated with specified design storm and runoff volumes, as detailed in the City's Engineering Design Guidelines.

- a) New Development: rate control, volume control, and water quality standards shall apply to all new development. There shall be no net increase from pre-project conditions (on an average annual basis) of total volume, TSS and TP. New development projects shall retain a runoff volume equal to one inch times the area of the proposed increase of impervious surfaces on-site.
- b) Redevelopment: rate control, volume control and water quality standards shall apply to all redevelopment. There shall be a net reduction in the amount of TP, TSS and storm water runoff volume leaving the site as compared with pre-project conditions. For redevelopment projects where the project proposer intends to add more impervious surfaces, the new development treatment requirements must be applied to the net increase of impervious surfaces. Additional treatment must also be included to reduce the volume, TP and TSS loads from the existing impervious surfaces.

Subd. 4. Design standards. Storm water detention facilities constructed in the City of Hopkins shall be designed according to the most current technology as reflected in this ordinance and the City's Engineering Design Guidelines.

Subd. 5. Wetlands.

- a) Runoff shall not be discharged directly into wetlands without pre-settlement of the runoff.
- b) A protective buffer strip of natural vegetation must be retained in accordance to the standards given within the City's Engineering Design Guidelines.
- c) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority:
 - (1) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
 - (2) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
 - (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
 - (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
 - (5) Compensating for the impact by replacing or providing substitute wetland resources or environments.

Subd. 6. Steep slopes. No land disturbing or development activities shall be allowed on slopes of 18 percent or more.

Subd. 7. Catch basins. All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse-grained material. Such basins shall be cleaned when they are half filled with material.

Subd. 8. Drain leaders. All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.

Subd. 9. Models/Methodologies/Computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the director of public works. Plans, specification and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computation shall appear on the plans submitted for review, unless otherwise approved by the director of public works.

Subd. 10. Watershed Management Plans/Groundwater Management Plans. Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes Section 103B.23 1 and 103B.255 respectively, and as approved by the Minnesota Board of Water Soil Resources in accordance with state law.

Subd. 11. Easements. If a storm water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

546.09. Use of impervious surfaces. Subdivision. 1. No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative material on impervious surfaces, or within storm water drainage systems, natural drainage ways, or within wetland buffer areas.

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

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

Subd. 4. Buffer zone. Fertilizer application shall not be made within one rod (16.5 feet) of any wetland or water resource.

546.10. Inspection. Subdivision 1. Notification. The Erosion Control Inspector shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved

Subd. 2. Procedure. The Applicant is responsible for regular inspections and record keeping needed to document compliance with the permit requirements. The Applicant must inspect the construction project once per week and within 24 hours after a rain event greater than 0.5 inches. The City may conduct inspections as needed to ensure that both erosion and sediment control and storm water measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. The Applicant shall notify the City a minimum of seventy-two (72) hours prior to the following required City inspections:

- a) Initial Inspection - when all erosion and sediment control BMPs are installed. This inspection must be completed before a building Permit can be issued.
- b) Project Complete Inspection – when the project is complete including, but not limited to, final grading, installation of all storm water management facilities, and final stabilization measures are complete. One year warranty begins after inspector approves project.
- c) Warranty Inspection – completed one (1) year later to confirm that permanent site stabilization methods have been successful and vegetation has been established.

Subd. 3. Reporting. The Applicant shall submit reports to the administrator under the following circumstances and shall submit recommendations for corrective measures, if appropriate, with such reports:

- a) There are delays of more than seven (7) days in obtaining materials, machinery, services or manpower necessary to the implementation of the Storm Water Management Plan as scheduled.
- b) There are delays of seven (7) days in land disturbing or filling activities or soil storage.
- c) The work is not being done in conformance with the approved plans and permit. Any changes to the approved plan must be submitted to the administrator for review and approval before work can commence.

546.11. Right of Entry. Subdivision 1. The issuance of a permit constitutes a right-of-entry for the City or its contractor to enter the construction site. The Applicant shall allow the City and its authorized representatives to:

- a. Enter the permitted site for the purpose of obtaining information, examining records, conducting investigations or surveys;

- b. Bring such equipment on the site as is necessary to conduct such surveys and investigations;
- c. Examine and copy any books, papers, or digital files pertaining to activities or records required to be kept under the terms and conditions of the permitted site;
- d. Inspect the storm water pollution control measures;
- e. Sample and monitor any items or activities pertaining to storm water pollution control measures;
- f. Correct deficiencies in storm water and erosion and sediment control measures consistent with the City's ordinances and the engineering guidelines.

Subd. 2. Search Warrants. If City employees have been refused access to any part of the premises from which storm water is discharged, and the employees are able to demonstrate probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder or to protect the overall public health, safety, and welfare of the community, the City may seek issuance of a search warrant from any court of competent jurisdiction.

546.12 Penalty.

Any person, firm or corporation violating any provision of this ordinance shall be fined not less than five dollars or more than five hundred dollars for each offence, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

- a) Notice of Violation. When the City determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
 - (1) The name and address of the owner or Applicant,
 - (2) The address when available or a description of the land upon which the violation is occurring,
 - (3) A statement specifying the nature of the violation,
 - (4) A description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action,
 - (5) At statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed, and
 - (6) 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 notice of violation.

- b) Stop Work Orders. Persons receiving a notice of violation will be required to halt all construction activities. This stop work order will be in effect until the City confirms that the land disturbance activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.
- c) Civil and Criminal Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be guilty of a misdemeanor and subject to prosecution. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- d) Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which may, after notice and opportunity for hearing, be specially assessed against the property and collected along with the ordinary taxes by the county.

546.13. Appeals. Subdivision 1. Any person aggrieved by the action of any official charged with the enforcement of this ordinance, as the result of the disapproval of a properly filed application for approval, issuance of a written notice of violation, or an alleged failure to properly enforce the ordinance in regard to a specific application, shall have the right to appeal the action to the City.

- a) The Applicant shall submit the appeal in writing and include supporting documentation.
- b) City staff shall make a decision on the appeal within 15 business days of receipt of a complete appeal application.
- c) The Applicant may appeal the decision of City staff to the City Council. This appeal must be filed with the City within 30 days of City staff's decision.

546.14. Other controls. In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control or shore land protection ordinance adopted by the City Council, the more restrictive standard prevails.

546.15. Severability. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applicants of this ordinance which can be given effect without the invalid provision or application.

(Section 546 was added by Ordinance No. 96-779, April 17, 1996. Major revisions were made to this section by Ordinance No. 2015-1088, March 26, 2015.)