

ORDINANCE NO. 2005-2

AN ORDINANCE TO CREATE AND ENACT TITLE 3, CHAPTER 8 OF THE CITY OF MOORHEAD CODE OF ORDINANCES, RELATING TO STORM WATER MANAGEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOORHEAD, MINNESOTA AS FOLLOWS:

SECTION 1. Chapter 8 of Title 3: Storm Water Management is hereby enacted to read as follows:

**CHAPTER 8
STORM WATER MANAGEMENT**

SECTIONS:

- 3-8-1: General Provisions.
- 3-8-2: Storm Water Management Plan – Application and Review.
- 3-8-3: Storm Water Management Plan - Approval Standards.
- 3-8-4: Storm Water Permits.
- 3-8-5: Enforcement.
- 3-8-6: Penalties and Noncompliance Fee.

3-8-1: **GENERAL PROVISIONS:**

Subsections:

- 3-8-1-01: Purpose.
- 3-8-1-02: Definitions.
- 3-8-1-03: Scope.
- 3-8-1-04: Management of Site Vegetation.

3-8-1-01. PURPOSE. This chapter sets forth uniform requirements for storm water management systems within the City of Moorhead. In the event of any conflict between the provisions of this chapter or other regulations adopted by the City of Moorhead, Clay County, State or Federal authorities, the more restrictive standard prevails.

The objectives of this chapter are as follows:

1. To promote, preserve, and enhance the natural resources within the City of Moorhead from adverse or undesirable impacts occasioned by development or other activities;
2. To protect and promote the health, safety, and welfare of the people and property through effective storm water quantity and quality management practices.
3. To regulate land development activity, land disturbing activity, or other activities that may have an adverse and/or potentially irreversible impact on storm water quantity, water quality and/or environmentally sensitive lands and to encourage compatibility between such uses;
4. To establish detailed review standards and procedures for land development activities throughout the City of Moorhead, thereby achieving a balance between urban growth and development and the protection of water quality; and
5. To provide for adequate storm water system analysis and design as necessary to protect

public and private property, water quality and existing natural resources.

This Chapter applies in the City of Moorhead, Minnesota and to persons outside the City who are, by contract or agreement with the City, users of the City storm water management system. Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this Chapter.

3-8-1-02: DEFINITIONS: For the purpose of this chapter, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and the word “may” is always permissive.

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| APPLICANT | Any person or group that applies for a building permit, subdivision approval, zoning change, approach, excavation or special use permit, storm water plan approval, storm water permit or grading/erosion control permit or any other permit which allows land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction. The term “applicant” also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction. |
| BASE FLOOD or REGIONAL FLOOD or 100-YEAR FLOOD | (as described in Title 10-2-2 of the City of Moorhead Code) The flood having a one percent chance or probability of being equaled exceeded in any given year (i.e., 100-year flood) - also referred to as the regional flood or 100-year flood. |
| BEST MANAGEMENT PRACTICES (BMP) | Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by federal, state, or designated area-wide planning agencies or included in the City of Moorhead Storm Water Design Manual. |
| BMP's | Measures designed to 1) prevent pollutants from leaving a specific area; 2) reduce/eliminate the introduction of pollutants; 3) protect sensitive areas or 4) prevent the interaction between precipitation and pollutants. |
| BUFFER | <p>A protective vegetated zone located adjacent to a natural resource, such as a water of the state that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat.</p> <p>The buffer strip begins at the “ordinary high water mark” for wetlands and the top of the bank of the channel for rivers and streams. This start point corresponds to the Minnesota Department of Natural Resources' definition of a “shoreline” in Minnesota Rules 6115.0030 (e.g. a stream 30 feet in width between banks with 100 foot buffer strips has a total protected width of 230 feet.)</p> |

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| CITY | The City of Moorhead or the City Council of the City of Moorhead. |
| CITY ENGINEER | The City Engineer of the City of Moorhead or authorized agent. |
| COMMON PLAN OF disturbing DEVELOPMENT OR SALE | A contiguous area where multiple separate and distinct land activities may be taking place at different times, or on different schedules, but under one proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur. |
| CONTROL MEASURE | A practice or combination of practices to control erosion and attendant pollution, see also Best Management Practices. |
| COUNCIL | The City Council of the City of Moorhead. |
| DETENTION FACILITY | A natural or manmade structure, including wetlands used for the temporary storage of runoff and which may contain a permanent pool of water, or may be dry during times of no runoff. |
| DEVELOPMENT | Any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration. |
| DEVELOPER | A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity. |
| DISCHARGE | The release, conveyance, channeling, runoff, or drainage, of storm water, including snowmelt. |
| DRAINAGE EASEMENT | A right to use the land of another for a specific purpose, such as a right-of-way for the movement of water across or under the land surface or the storage of water. |
| EROSION | Removing the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature. |
| EROSION CONTROL | Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing. |
| EROSION & SEDIMENT CONTROL PLAN (E&S CONTROL PLAN) | A written description and/or plan indicating the number, locations, sizes, and other pertinent information about best management practice methods designed to reduce erosion of the land surface and the deposition of sediment within a waterway. An E&S Control Plan is required as part of a Storm Water Management Plan. Both the Storm Water Management Plan and E&S Control Plans are used in developing the State mandated Storm Water Pollution Prevention Plan (SWPPP). An E&S Control Plan may be required for certain projects not requiring a full Storm Water Management Plan, as outlined in this ordinance or determined necessary by the City Engineer. |

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| EXPOSED SOIL AREAS | All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered “exposed soil,” until it meets the definition of “final stabilization.” |
| FINAL STABILIZATION | Means that all soil disturbing activities at the site have been completed, and that a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of seventy (70) percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or rangeland, final stabilization constitutes returning the land to its preconstruction agricultural use or as required by the Moorhead Storm Water Design Manual. |
| FLOODWAY | The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study (as described in Title 10-2-2 of City of Moorhead Code). |
| HYDRIC SOILS | Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile. |
| HYDROPHYTIC VEGETATION | Macrophytic (large enough to be observed by the naked eye) 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 AREA | A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas; and concrete, asphalt, or gravel parking lots and roads. |
| LAND DEVELOPMENT ACTIVITY | The act of subdivision or platting properties for personal use, adding value or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities. |
| 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 & grubbing, grading, excavating, transporting and filling of land. Within the context of this ordinance, land disturbance activity does not mean: <ul style="list-style-type: none"> 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. Additions or modifications to existing single family structures that result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.

C. Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the storm water system.

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

E. 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.

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| LANDOWNER | Any person holding title to or having a divided or undivided interest in land. |
| LOCAL DETENTION | Detention intended to serve only the developing area in question and no areas outside of the development boundaries. As such it is under the control of one owner or group of owners. This is also known as on-site detention. |
| LOCAL DRAINAGE SYSTEM | The storm drainage system which transports the minor and major storm water runoff to the major storm water system and serving only the property within the development boundaries, under the control of one owner or group of owners. This is also known as the on-site drainage system. |
| MANAGEMENT PRACTICE | A practice or combination of practices to control erosion and water quality degradation. |
| NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT | Any permit or requirement enforced pursuant to the Clean Water Act as amended for the purposes of regulating Storm Water discharge. |
| NATURAL WATER | A river, stream, pond, channel or ditch. |
| NONCOMPLIANCE FEE | The administrative penalty, or fee, for re-inspection of a property which may be assessed to a Permittee, Land Owner, Developer or their Contractor(s) for noncompliance with the provisions and/or conditions of an approved storm water plan and/or permit or the violation of any other provisions contained in this storm water ordinance. |

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| ON-SITE DETENTION | a.k.a Local Detention System. |
| ON-SITE DRAINAGE SYSTEM | a.k.a Local Drainage System. |
| OUTLET | Any discharge point, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or groundwater. |
| OWNER OR OCCUPANT | Any person owning or using a lot, parcel of land, or premises connected to and discharging Storm Water into the storm water system of the City, and who pays for and is legally responsible for the payment of storm water rates or charges made against the lot, parcel of land, building or premises, if connected to the Storm Water system or who would pay or be legally responsible for such payment. |
| PERMANENT COVER | Means “final stabilization.” Examples include grass, gravel, asphalt, and concrete. See also the definition of “final stabilization.” |
| PERMANENT constructed DEVELOPMENT | Any buildings, structures, landscaping and related features as part of a development project approved for construction or constructed prior to the passage of this ordinance. |
| PERMANENT FACILITIES | Those features of a storm water management plan which are part of any natural or constructed storm water system that requires periodic maintenance to retain their operational capabilities. This includes but is not limited to storm sewers, infiltration areas, detention areas, channels, streets, etc. |
| PERMIT | With in the context of this rule a “permit” is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities. |
| PERMITTEE | Any person who applies for and receives approval of storm water plan and/or permit from the City. |
| PERSON | Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private. |
| PROHIBITED DISCHARGE | A non-storm water discharge into the storm water system or a natural water, including but not limited to; <ul style="list-style-type: none"> a. Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures. b. The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.). |

c. Erosion and sediment originating from a property and deposited onto City streets, private properties or into the storm water conveyance system, including those areas not specifically covered under an approved Storm Water Management Plan or Storm Water Permit.

d. Failure to remove sediments transported or tracked onto City streets by vehicles or construction traffic within 24 hours of it being deposited on the street.

e. For the purposes of this ordinance, Prohibited Discharges do not include the following, unless information is available to indicate otherwise:

- Water line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground water
- Uncontaminated ground water infiltration
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Irrigation water
- Springs
- Water from crawl space pumps
- Footing drains
- Lawn watering
- Individual residential car washing
- Flows from riparian habitats and wetlands
- De-chlorinated swimming pool discharges
- Street wash water

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| PUBLIC STORM SEWER | A storm sewer located entirely within publicly owned land or easements. |
| REGIONAL DETENTION | Detention facilities provided to serve an area outside the development boundaries. A regional detention site generally receives runoff from multiple storm water sources and serves an area of approximately one quarter section. |
| REGIONAL FLOOD | a.k.a. Base Flood or 100-year flood (as described in Title 10-2-2 of City of Moorhead Code). |
| RETENTION FACILITY | A natural or manmade structure that provides for the storage of all or a portion of storm water runoff. |
| RUNOFF | The rainfall, snowmelt, dewatering, or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds. |
| SEDIMENT | Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location. |

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| SEDIMENT CONTROL | The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins. |
| SIGNIFICANT REDEVELOPMENT | Alterations of a property that changes the “footprint” of a site or building in such a way that results in the disturbance of over one (1) acre of land. This term is not intended to include activities, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls, such as exterior remodeling. |
| SITE | The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the storm water plan or permit application. |
| STABILIZE | To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, placing concrete, gravel, or other measures. |
| STABILIZED | The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization. Ground surfaces may be temporarily or permanently stabilized (also see Final Stabilization). |
| STATE | The State of Minnesota. |
| STORM SEWER | A pipe or conduit for carrying storm waters, surface runoff, and drainage, excluding sewage and industrial wastes. |
| STORM WATER | Means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage. Storm water does not include construction site dewatering. |
| STORM WATER depressed DETENTION | Temporary storage of storm water runoff in ponds, parking lots, grassy areas, rooftops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow. |
| STORM WATER MANAGEMENT | The planned set of public policies and activities undertaken to regulate runoff and reduce erosion, and maintain or improve water quality under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows and/or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Storm water management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions. |

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| PROTECTION | protection are straw, mulch, erosion control blankets, wood chips, and erosion netting. |
| UNDEVELOPED LAND | Land that in its current state has not been impacted by significant land disturbance activities, annexed into the City or subdivided into multiple ownership lots and is typically zoned agricultural. |
| URBAN AREA | Land associated with, or part of, a defined city or town. This title of the City Code applies to urban or urbanizing, rather than rural areas. |
| USER | Any person who discharges, causes, or permits the discharge of storm water into the City's Storm Water management system. |
| VIOLATION | The willful or negligent act of noncompliance with the conditions attached to an approved storm water plan and/or permit, or any other provisions contained in this ordinance, subject to enforcement and penalty or noncompliance fees. |
| WATERS OF THE STATE | All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.” |
| WATERCOURSE | The natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel or an open channel facility that has been constructed for such purpose. This shall include any easements obtained for the purposes of runoff conveyance. |
| WET POND A.K.A. WET DETENTION FACILITY. | A Retention Facility which includes a permanent pool of water used for the purposes of providing for the treatment of storm water runoff. |
| WATERSHED DISTRICT | The Buffalo Red River Watershed District. |
| WATERSHED MASTER PLAN | The plan that an engineer/designer formulates to manage urban storm water runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land use, and grading plan, peak rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is may be submitted to regulatory officials for their review for adoption. |
| WETLANDS | Lands transitional between terrestrial and aquatic systems (excluding drainage ditch bottoms) 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 three attributes: |

- a. A predominance of hydric soils;
- b. Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- c. Under normal circumstances support the prevalence of such vegetation.

3-8-1-03: SCOPE:

- A. Prohibited Discharges. It shall be considered an offense for any person to cause or allow a Prohibited Discharge into Waters of the State, including the City storm water system, or any natural water.
- B. Land Disturbing Activity Requiring A Storm Water Management Plan. Any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing subdivision or plat approval, a building permit or any land disturbance activity within the City must submit a Storm Water Management Plan and/or a Storm Water Permit, or Grading/Erosion Control Permit application to the City Engineer unless a waiver is provided in accordance with this Section.

No subdivision or plat approval shall be issued until a Storm Water Management Plan or a waiver of the approval requirements has been obtained in strict conformance with the provisions of this chapter. No building permit, shall be issued until approval of a Storm Water Permit or Grading/Erosion Control Permit or a waiver of the permit requirements has been obtained in strict conformance with the provisions of this chapter. No land shall be disturbed until the permit is approved by the City and conforms to the standards set forth herein.

A Storm Water Management Plan may also be required in some situations as determined by the City Engineer, [i.e., development within an existing subdivision with documented flooding problems associated with storm water runoff, or development occurring on a large lot within a subdivision where a Watershed Master Plan was previously developed].

Exemptions to the Storm Water Management Plan and/or Storm Water Permit requirements of this section include:

Any part of a subdivision that is included in a plat that has been approved by the City Council and recorded with the Register of Deeds on or before the effective date of this chapter. A Storm Water Permit for land disturbing activities on such properties may still be required, as determined by the City Engineer, and such activities are still subject to other compliance requirements in accordance with this chapter:

1. A Storm Water Management Plan is not required for individual lots or properties located within a subdivision or plat for which a Storm Water Management Plan has already been approved or in areas included within a Watershed Master Plan area. This exemption is subject to the City Engineer's consideration and approval. Storm Water Permits, however, are required subject to the other exemptions noted in this section;
2. A parcel for which a building permit has been approved on or before the effective date of this chapter and an NPDES/SDS Permit was not required;

3. The installation of any of the following: a fence, sign, trees or shrubs, telephone and electric poles and other kinds of posts or poles, except where such uses are prohibited by easement or storm water conveyance requirements;
 4. Any land disturbance activity not associated with building construction that will affect less than 5,000 square feet of undeveloped land. A Grading/Erosion Control Permit will be required unless the proposed project will not result in sediments entering the storm water system;
 5. Emergency work to protect life, limb, or property.
- C. Land disturbing activity involving the construction of a single-family or two-family dwelling. Construction of single family or two family dwellings must comply with in place BMPs and any existing permitted SWPPP for the subdivision, including NPDES/SDS Permit requirements and Subdivision Registration. A Grading/Erosion Control Permit and compliance with the Single Family Residential Construction Erosion/Sediment Control Standards is also required.
- D. Installation and repair of utility service lines.
1. At project sites that require permit coverage where a utility contractor is not the site owner or operator, each utility contractor must comply with the provisions of the storm water pollution prevention plan (SWPPP) for the project their construction activities will impact. Each utility contractor must ensure that their activities do not render ineffective, the erosion prevention and sediment control best management practices (BMPs) for the site. Should a utility contractor damage or render ineffective any BMPs for the site, the utility contractor must repair or replace such BMPs within seven (7) days of completion of utility installation on the site. The utility contractor will be responsible for a BMP that includes seed or sod and must provide maintenance, including any watering necessary to insure the establishment of the sod or seed. The establishment period for a BMP that includes sod or seed shall be 30 days, after which, if the area does not have an acceptable level of establishment, the utility contractor must re-sod or re-seed until satisfactory establishment is achieved.
 2. At project sites where a utility contractor is the site owner or operator, and the utility company disturbs one or more acres of soil for the purpose of installation of utility service lines, including but not limited to residential electric, gas, telephone and cable lines, the utility company must apply for permit coverage from the City and state prior to commencement of construction.
 3. Utility contractors working in a street right-of-way to repair existing or install new utilities and disturbing less than one acre shall obtain a Grading/Erosion Control permit before commencing work. The utility contractor is required to provide appropriate inlet protection and sediment control during the course of the work so as to ensure the storm sewer system is protected from pollution. The utility contractor is also required to provide street sweeping as necessary to insure that sediments resulting from their activity do not enter the storm water system following construction. The street shall be swept within (1) working day of completion of utility installation on the site. All disturbed vegetation shall be replaced with seed or sod within seven (7) days of completion of utility installation on the site. The City will provide guidance regarding acceptable temporary protection BMPs for inlets and methods to stabilize the exposed soil areas until they meet the definition of final stabilization.
- E. Waivers. The City Engineer may waive any requirement of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement is not contrary to the objectives in 3-8-1. The City Engineer 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 the said standards and requirements.

3-8-1-04: **MANAGEMENT OF SITE VEGETATION.** Any Landowner shall provide for the installation and maintenance of vegetation on their property in accordance with the following criteria, regardless as to whether or not a Storm Water Management Plan, Storm Water Permit or Grading/Erosion Control Permit has been approved or is necessary under this Chapter:

- A. **Use of Impervious Surfaces.** No person shall apply items included in the definition of “Prohibited Discharge” on impervious surfaces or within storm water drainage systems with impervious liners or conduits.
- B. **Unimproved Land Areas.** Except for driveways, sidewalks, patios, areas occupied by structures, landscaped areas, or areas that have been otherwise improved, all areas shall be covered by plants or vegetative growth.
- C. **Use of Pervious Surfaces.** No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade Watercourses, Wetlands, or within Wetland Buffer areas. No person shall deposit items included in the definition of “Prohibited Discharge” except as noted above.

Failure to comply with this section of the Chapter shall constitute a violation and subject the Landowner to the enforcement provisions, penalties and noncompliance fees outlined in 3-8-6.

3-8-2

STORM WATER MANAGEMENT PLAN – APPLICATION AND REVIEW

Subsections:

- 3-8-2-01: Application and Content
- 3-8-2-02: Application Fee
- 3-8-2-03: Review Process
- 3-8-2-04: Duration
- 3-8-2-05: Conditions

3-8-2-01: **APPLICATION.** A written Storm Water Management Plan Application shall be filed with the City Engineer as required by this Chapter. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this chapter and the City of Moorhead Storm Water Design Standards Manual [Manual]. Prior to applying for approval of a Storm Water Management Plan, it is recommended that the applicant have the Storm Water Management Plan reviewed by any affected public agencies. While it is not necessary it is desirable in some cases to combine the Storm Water Management Plan and Storm Water Permit submittals in a single application.

Two sets of legible copies of the drawings and required information shall be submitted to the City Engineer and shall be accompanied by a receipt from the City to document the payment of all required fees for processing and approval as set forth in 3-8-2-02. Plans shall be prepared to a scale appropriate to the site of the project and suitable for performing the review.

At a minimum, the Storm Water Management Plan shall contain the information outlined in the Manual. A written Storm Water Management Report discussing the pre and post development hydrologic and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed

and existing structures, and water quality concerns shall also be provided. The contents of this report shall be in accordance with the recommended format in the Manual. For additional information refer to Section 3-8-3.

3-8-2-02: APPLICATION FEE. A processing and approval fee adopted by the City Council shall accompany all applications for Storm Water Management Plan approval.

3-8-2-03: PROCESS. A Storm Water Management Plan meeting the requirements of this Section shall be submitted to the City Engineer for review and to determine its compliance with the standards as

outlined in Section 3-8-3. The City Engineer shall approve, approve with conditions, or deny the Storm Water Management Plan. If a particular storm water management plan involves a complex application or has the potential for significant controversy, the City Engineer may bring the proposed Storm Water Management Plan before the City Council for consideration and public comment. Prior to initiating construction as outlined in the Storm Water Management Plan, the applicant must also obtain a Storm Water Permit.

3-8-2-04: DURATION. Approval of any plan submitted under the provisions of this Chapter 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 approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the City Engineer may grant one extension of not greater than one year. The City Engineer shall acknowledge receipt of any request for an extension within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised following the same procedure for an original approval. Provided, the City Engineer may waive all or part of the application fee if the revision is minor. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original plan was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application.

3-8-2-05: CONDITIONS. A Storm Water Management Plan may be approved subject to compliance with conditions reasonable and necessary to insure 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, stage the work over time, require alteration of the site design to insure proper buffering, require the acquisition or dedication of certain lands or easements, and require the conveyance to the City of Moorhead or other public entity of certain lands or interests therein for storm water system facilities. The City Engineer may specify special requirements or conditions for specific major or minor watersheds within the City and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed. Approval of a plan shall bind the applicant to perform and comply with all the requirements and conditions of the plan prior to commencing or concurrent with any land disturbing activities.

3-8-3

STORM WATER MANAGEMENT PLAN - APPROVAL STANDARDS

Subsections:

3-8-3-01: General

3-8-3-02: Storm Water Design Standards Manual

3-8-3-03: Models/Methodologies/Computations

3-8-3-04: Storm Water Management Criteria for Permanent Facilities

- 3-8-3-05: Operation, Maintenance and Inspection
- 3-8-3-06: Easements
- 3-8-3-07: Plan Applicability
- 3-8-3-08: Plan Amendments

3-8-3-01: General. This section describes the approval standards used to evaluate a proposed Storm Water Management Plan. The City Engineer shall not approve a Storm Water Management Plan, which fails to meet these standards. Other applicable standards, such as state and federal standards, shall also apply. If the standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the Applicant's responsibility to obtain any required permits from other governmental agencies having any jurisdictional authority over the work to be performed. Typically, such agencies include, but are not limited to the Buffalo-Red River Watershed District, Clay County, the Minnesota Department of Natural Resources, the Minnesota Department of Transportation, the Minnesota Pollution Control Agency, the State Historical Preservation Office, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, Federal Emergency Management Agency, and others. The City may choose to obtain some of the required permits. The applicant will be notified which permits are to be obtained by the City.

3-8-3-02: **STORM WATER DESIGN STANDARDS MANUAL.** The Storm Water Design Standards Manual (Manual), contains the principal standards and design criteria for developing an effective

and acceptable Storm Water Management Plan. The Manual contains an overview of the City's Storm Water Management Policy and design objectives as well as a detailed discussion of the required contents for Storm Water Management Plans submitted to the City Engineer for approval. The Manual contains detailed criteria for hydrologic evaluations, the design of storm water management system facility components, water quality protection standards, instructions for the development of an erosion and sedimentation control plan, and requirements for easements and right-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details approved by the City.

3-8-3-03: **MODELS/METHODOLOGIES/COMPUTATIONS.** Other than those outlined in the Manual, any hydrologic models and/or design methodologies used to determine runoff conditions and to analyze storm water management structures and facilities, shall be approved in advance by the City Engineer. All Storm Water Management Plans, drawings, specifications, and computations for storm water management facilities submitted for review shall contain a validated seal and shall be signed by a Professional Engineer registered in the State of Minnesota. This requirement will be met as part of a properly completed Storm Water Management Plan Report, as described in the Manual.

3-8-3-04: **STORM WATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES.** Storm water control facilities included as part of the final design for a Permanent Development shall be addressed in the Storm Water Management Plan and shall meet the following criteria:

- A. **Pre Versus Post Hydrological Response of Site.** An applicant shall install or construct, on or for the proposed land disturbing activity or development activity, all storm water management facilities necessary to manage runoff such that increases in flow under the design conditions will not occur that could exceed the capacity of the Outlet, or the Storm Water Management System, into which the site discharges or that would cause the Storm Water Management System to be overloaded or accelerate channel erosion as a result of the proposed land disturbing activity or development activity. Under no circumstances shall the 2, 10, or 100-year developed peak flow exceed the 2, 10, or 100-year existing peak flow without prior written approval by the City Engineer. For Regional Detention or Storm Water Management System, the City Engineer shall recommend a proposed System Charge or Assessment to be approved by the City Council based upon an approved Watershed Master Plan and an analysis of required drainage systems, projected costs and flood protection benefits provided to those properties

directly or indirectly impacted by the Regional Detention or Storm Water Management System.

- B. Natural Features of the Site. The applicant shall give consideration to reducing the need for Storm Water Management System 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 water flow without compromising the integrity or quality of these natural features.
- C. Storm Water Management Strategies. The following Storm Water Management practices shall be investigated when developing a Storm Water Management Plan:
 - 1. Natural infiltration of precipitation and runoff on-site, if suitable soil profiles can be created during site grading. The purpose of this strategy is to encourage the development of a Storm Water Management Plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches;
 - 2. Flow attenuation by use of open vegetated swales and natural depressions;
 - 3. Storm Water Detention facilities; and
 - 4. Storm Water Retention facilities (on a case by case basis).
 - 5. Other facilities requested by the City Engineer.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified. Justification shall be provided by the applicant for the method selected.

- D. Adequacy of Outlets. The adequacy of any Outlet used as a discharge point for proposed Storm Water Management System must be assessed and documented to the satisfaction of the City Engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate post-development runoff discharges and volumes without causing increased property damages or any increase in the established base flood elevation. If a flood plain or floodway has not been established by the Federal Emergency Management Agency, the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a Professional Engineer registered in the State of Minnesota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the City Engineer are approved and installed as part of the Storm Water Management Plan. The assessment of Outlet adequacy shall be included in the Storm Water Management Plan.
- E. Storm Water Detention/Retention Facilities. Storm Water Detention or Retention facilities proposed to be constructed in the Storm Water Management Plan shall be designed according to the most current technology as reflected in the Manual.

3-8-3-05: OPERATION, MAINTENANCE AND INSPECTION. All Storm Water Management Systems shall be designed to minimize the need for maintenance, to provide easy vehicle (typically eight (8) feet or wider) and personnel access for maintenance purposes, and to be structurally sound. All Storm Water Management Systems shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in Storm Water Runoff. The City Engineer may inspect all public and private Storm Water Management Systems at any time. Inspection records will be kept on file at the City Engineer's Office. It shall be the responsibility of the applicant to obtain any necessary easements or other property

interests to allow access to the Storm Water Management System for inspection and maintenance purposes. The City Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions, penalties, noncompliance orders and fees.

The City or its designated representative shall inspect all Storm Water Management Systems during construction, during the first year of operation and at least once every five (5) years thereafter. The City will keep all inspection records on file for a period of three (3) years beyond the NPDES permit period.

3-8-3-06: EASEMENTS. Easements may be required as conditions to the issuance of a Storm Water Management Plan and/or Permit approval. If a Storm Water Management Plan involves directing some or all of the site's runoff to a drainage easement, the applicant or his designated representative shall obtain from the property owners any necessary easements or other property interests concerning the flowing of such water.

3-8-3-07. PLAN APPLICABILITY. A Storm Water Management Plan approval issued under this chapter runs with the land and is a condition of plat or development approval. Any Landowner or subsequent Landowner of any parcel within the plat or development area must comply with the plan or any approval, condition, revision or modification of the Plan. Failure to comply with this Plan shall constitute a violation and subject the Permittee, Developer, and/or Landowner to the enforcement provisions, penalties and noncompliance fees.

3-8-3-08 PLAN AMENDMENT. Storm Water Management Plans may be amended only by a written request submitted to the City Engineer. This request shall contain the reason for the change and documentation related to any additional change in projected impacts, which may result from amendment approval. Amendment requests submitted prior to final approval of a plan application shall be considered part of the original submittal. Amendment requests filed after Plan approval shall be considered following the same procedures as if it were a new application and subject to all applicable fees and review periods. Provided, the City Engineer may waive all or part of the fees if the amendment is minor.

3-8-4

STORM WATER AND GRADING/EROSION CONTROL PERMITS

Subsections:

- 3-8-4-01: Storm Water and Grading/Erosion Control Permits
- 3-8-4-02: Construction Plans and Specifications
- 3-8-4-03: Construction Activities
- 3-8-4-04: Final Storm Water Management Plan

3-8-4-01: STORM WATER AND GRADING/EROSION CONTROL PERMITS. It is unlawful to initiate any land development activity, land disturbing activity, or other activities which may result in an increase in storm water quantities, degradation of storm water quality, or restriction of flow in any storm sewer system, open ditch or natural channel, storm water easement, water body, or wetland outlet within the jurisdiction of the City, without having first complied with the terms of this chapter. Other activities include those outlined in 3-8-1-03.

A. Permit Application. All persons subject to meeting the requirements and needing to obtain a Storm Water Permit shall complete and file with the City Engineer an application in the form prescribed by the City Engineer and accompanied by a fee established by the City Council. The permit application may need to be accompanied by a Storm Water Management Plan as prescribed under Section 3-8-2 of this chapter, if such a plan has not been previously approved. Permit applications may be denied if the applicant is not in compliance on another Storm Water permit currently in effect.

- B. Grading/Erosion Control Permit. A Grading/Erosion Control Permit may be issued from the City Engineer for projects disturbing under 5,000 square feet and that do not require a detailed engineering assessment for preliminary site work, or for a project site that is located within a previously approved Storm Water Management Plan development area. The Grading/Erosion Control Permit does not preclude the requirements for a Storm Water Management Plan or Storm Water Permit. A grading/erosion control permit application does not require certification by a Professional Engineer registered in the State of Minnesota, but will only be issued at the discretion of the City Engineer. Commencing earthwork on a project prior to plan or permit approval is considered a violation of this chapter.
- C. Permit Delays. The City Engineer may withhold granting approval of a Storm Water Permit or a Grading/Erosion Control Permit until all issues associated with the site are resolved to the satisfaction of the City Engineer. Permits may be conditioned with delays such that work cannot begin until a specified date or until after the site is inspected.
- D. Permit Conditions. Permits are issued subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the City Council. Permits may contain, but are not limited to, any of the following conditions:
1. A System Charge or Assessment for a Storm Water Outlet utilizing a regional Storm Water Management System in accordance with a cost determined by the City Engineer and approved by the City Council for said Outlet;
 2. Limits on the maximum rate of allowable storm water discharge;
 3. Requirements for water quality of storm water discharge;
 4. Requirements for the installation, operation and maintenance of storm water facilities including detention/retention or other treatment facilities;
 5. Requirements for erosion and sediment control, including measures to be implemented and other procedures necessary to protect the storm water system;
 6. Compliance schedule;
 7. Requirements for notification to and acceptance by the City Engineer of any land disturbing activities which have the potential for increasing the rate of storm water discharge resulting in degradation of storm water quality; and
 8. Easements as outlined in 3-8-3-06.
 9. Other conditions as deemed appropriate by the City Engineer to insure compliance with this chapter.
- E. Permit Duration. Permits must be issued for a time period specified by the City Engineer. The applicant, if necessary, shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the City Engineer during the term of the permit as set forth in Section 3-8—4-01(F). Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original permit was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application.

- F. Permit Modification. The City Engineer for just cause upon 30-day notice may modify Storm Water Permits. Just cause shall include but not be limited to:
1. Promulgation of new federal, state or local regulatory requirements;
 2. Changes in the requirements of this Chapter;
 3. Changes in the process used by the Permittee or changes in discharge rate, volume, or character; and
 4. Changes in the design or capability of receiving Storm Water Systems.

The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- G. Permit Amendments. Storm Water Permits may be amended (by applicant) only by a written request submitted by the Permittee to the City Engineer. This request shall contain the reason for the change and documentation related to any additional impacts, which may result from amendment approval. Amendment requests submitted prior to issuance of a Storm Water Permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines used for the Storm Water Permit Applications under this Section. Depending on the extent of the amendment, the City Engineer may waive any additional fees for a permit amendment review.
- H. Permit Transfer. A permit runs with the property it covers, until the permitted activities are completed, and is transferable to new Landowners in its entirety or by parcel, with each parcel being subject to the permit and any conditions, which apply to that parcel. Land transfers must be reported to the City Engineer within seven (7) days of the transfer. This section refers to City issued permits and does not release the applicant or owner from transfer requirements of a NPDES/SDS permit including but not limited to permit transfers or subdivision registration.
- I. Monitoring Facilities. The City Engineer may require the Applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each Storm Water System component. Where at all possible, the monitoring facility shall be located on the Applicant's property as opposed to being located on public rights-of-way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.
- J. Inspection. The City Engineer may inspect the Storm Water Management System of any Permittee to determine compliance with the requirements of this chapter. The applicant shall promptly allow the City and their authorized representatives, upon presentation of credentials to:
1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
 2. Bring such equipment upon the permitted site as is necessary to conduct such inspections, 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 this permitted site.
 4. Inspect the storm water pollution control measures.

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

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 Permittee.

- K. Inspections of the Storm Water Pollution Prevention Plan's Measures. At a minimum, such inspections shall be done weekly by the Permittee (general contractor, developer or the developer's designated representative), and within twenty-four (24) hours after every storm or snow melt event large enough to result in runoff from the site (approximately 0.25 inches or more in twenty-four (24) hours). At a minimum, these inspections shall be done during active construction.

3-8-4-02: CONSTRUCTION PLANS AND SPECIFICATIONS. The plans and specifications prepared for the construction of the Storm Water Management System must be:

1. Consistent with the Storm Water Management Plan approved by the City Engineer, including any special provisions or conditions.
2. In conformance with the requirements of the City of Moorhead's Municipal Specifications, Storm Water Design Standards Manual and any other necessary permits required and issued by other governmental agencies.
3. Sealed and signed by a Professional Engineer registered in the State of Minnesota.
4. Submitted to the City Engineer for approval.
5. Approved by the City Engineer prior to commencing construction.

The construction grading and erosion/sediment control plans, in a format acceptable to the City Engineer, shall contain a drawing or drawings delineating the features incorporated into the Storm Water Pollution Prevention Plan (SWPPP) including details of perimeter protection, construction phasing, storm drain inlet protection, erosion control measures, temporary and final stabilization measures, including all BMP's. In addition the construction specifications shall contain technical provisions describing erosion, sedimentation, and water control measures to be utilized during and after construction as well as to define the entities responsible for the installation and maintenance of the BMP's. The project SWPPP must be incorporated into the construction specification documents.

3-8-4-03: CONSTRUCTION ACTIVITIES. Construction operations must at a minimum comply with any applicable federal or state permit and SWPPP in addition to the following Best Management

Practices:

- A. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the receiving channels, or in any wetland.
- B. Waste and Material Disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum based products, paints, toxic materials, or other hazardous materials) shall be properly disposed of off-site and shall not be allowed to be carried by Runoff into a receiving channel, storm sewer system, or Wetland.

- C. Tracking Management. Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to minimize sediment from being tracked onto public or private roadways. Any material deposited by vehicles or other construction equipment onto a public or private road shall be removed (not by flushing) before the end of each day's work.
- D. Water Quality Protection. The construction contractor, including the general contractor and all subcontractors, shall be required to control oil and fuel spills and chemical discharges to prevent such spills or discharges from entering any watercourse, sump, sewer system, water body, or wetland.
- E. Site Erosion and Sedimentation Control. Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the Storm Water Design Standards Manual or other standards determined by the City Engineer.

3-8-4-04: FINAL STORM WATER MANAGEMENT PLAN. Upon completion of all required construction activities, the Permittee shall submit to the City Engineer a Final Storm Water Management Plan

to document any changes or material modifications to the original Storm Water Management Plan concept. The Final Storm Water Management Plan shall contain Record Drawings showing the final configuration for all improvements as constructed. A Professional Engineer registered in the State of Minnesota shall certify the Final Storm Water Management Plan and Record Drawings. If no significant or material changes occurred between the approved plan and final construction, the Record Drawings need not be submitted to the City Engineer. The Permittee, however, is responsible to retain copies of said drawings and provide them to the City Engineer upon request. Failure to provide these drawings upon written request constitutes a violation of this chapter.

3-8-5

SUSPENSIONS, REVOCATIONS AND STOP WORK ORDERS

Subsections:

- 3-8-5-01: Storm Water Violations and Reporting
- 3-8-5-02: Emergency Suspension
- 3-8-5-03: Revocation of a Permit
- 3-8-5-04: Notification
- 3-8-5-05: Hearing
- 3-8-5-06: Legal Action

3-8-5-01: STORM WATER VIOLATIONS AND REPORTING. Storm Water Management Plan, Storm Water Permit, Grading/Erosion Control Permit and non-permit related Storm Water violations include, but are not limited to:

1. Commencing site grading or preparation work without first having obtained an NPDES/SDS Storm Water Permit for Construction Activity, Storm Water Permit or a Grading/Erosion Control Permit.
2. Noncompliance with the requirements or conditions attached to an approved SWPPP of an NPDES/SDS Storm Water Permit For Construction Activity, Storm Water Management Plan, Storm Water Permit, Grading/Erosion Control Permit or other standards established by the City Engineer, under authority of the City.

3. The causing or allowing of a Prohibited Discharge in the City storm water system, a natural watercourse, storm water easement, stream or river.
4. Failure to remove sediments transported or tracked onto City streets by vehicles or construction traffic within 24 hours of it being deposited on the street.
5. Failure to install and maintain the erosion control measures (BMP's) on a construction site as outlined in the approved Storm Water Permit, SWPPP and its amendments, Grading/Erosion Control Permit or other standards established by the City Engineer, under authority of the City Engineer.
6. Other violations or issues as noted or described throughout this chapter.

The City Engineer shall document the reporting of a violation in writing. Such violations may be obtained via a site inspection or a public complaint followed by a site inspection. At a minimum the complaint file shall contain the name and address of the owner, date, time and nature of the violation as well as other information as deemed necessary to document site conditions, including photos and personal conversation records. In the case of a public complaint the file shall also, if voluntarily provided, contain the name address and phone number of the individual filing the complaint. In addition the complaint file shall contain records documenting subsequent site inspections, compliance actions and a memo outlining the determination of the City Engineer and any enforcement action taken and/or any noncompliance fees levied.

3-8-5-02: EMERGENCY SUSPENSION. The City Engineer may for cause order the suspension of a Storm Water Management Plan, Storm Water Permit or Grading/Erosion Control Permit when the City Engineer determines that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. If such permits are suspended, all work in the area covered by the permit shall cease immediately. If any person is notified of such suspension and then fails to comply voluntarily with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may reinstate the Storm Water Management Plan, Storm Water Permit or Grading/Erosion Control Permit upon proof of compliance with all plan or permit conditions. The City Engineer may also order the immediate suspension of all work if a person or entity is conducting an activity for which a permit is needed without first obtaining the appropriate permit. The suspension shall remain in effect until the required permit(s) are obtained.

Whenever the City Engineer orders the suspension of a plan or permit and/or orders all work to stop pursuant to the emergency provisions of this section, the City Engineer shall serve notice on the Landowner and/or Permittee personally, or by registered or certified mail. The Landowner and/or Permittee has the right to an informal hearing before the City Engineer upon request made in writing and filed with the City Engineer. The informal hearing must be held within five (5) days of the request. Following the hearing, the City Engineer may affirm, modify or rescind the order.

Any person dissatisfied with an order the City Engineer issued pursuant to this section may request a hearing pursuant to Section 3-8-5-05 by filing a written request for a hearing with the City Engineer, within fifteen (15) days of receipt of the order. The hearing must be held within ten (10) days of receipt of the request. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending.

3-8-5-03: NON-EMERGENCY REVOCATION OF A PERMIT. A Storm Water Management Plan, Storm Water Permit or Grading/Erosion Control Permit may be revoked following notice. An opportunity for a hearing in accordance with Sections 3-8-5-04 and 3-8-5-05 will be provided. The City Engineer may revoke a plan or permit for cause, including but not limited to:

1. Violation of any terms or conditions of the applicable plan or permit;

2. False statements on any required reports and applications;
3. Obtaining a plan or permit by misrepresentation or failure to disclose fully all relevant facts; or
4. Any other violation of this chapter or related ordinance.

The City Engineer may revoke a Storm Water Management Plan, Storm Water Permit or Grading/Erosion Control Permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing opportunity provided in accordance with Sections 3-8-5-04 and 3-8-5-05. Under a revoked plan or permit no additional permit approvals (i.e., building, excavation, etc.) shall be issued for any properties within the area included within the plan or permit boundaries until approved by the City Engineer. In addition the City may deny new permits (i.e., storm water, building, excavation, etc.) to the Permittee or Landowner in violation for projects in other locations until current permits are brought into compliance

3-8-5-04: NOTIFICATION. Whenever the City Engineer finds that any person has violated or is violating this chapter, Storm Water Management Plan, Storm Water Permit, Grading/Erosion Control Permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the City Engineer shall serve upon such person a written notice stating the nature of the violation. Within seven (7) days of the date of the notice, unless a shorter time frame is set by the City Engineer due to the nature of the violation, a plan satisfactory to the Engineer for correction thereof must be submitted to the City Engineer. If a satisfactory plan is not submitted in a timely manner, or the terms of such plan are not followed, the City Engineer may order all work in the affected area to cease until submittal of such a plan and compliance with the plan is happening. If a person disagrees with the determination of the City Engineer, that person, within fifteen (15) days of the order of the City Engineer, may request a hearing as provided in Section 3-8-5-05.

3-8-5-05: HEARING: If a person requests a hearing to contest the order of the City Engineer, a notice of hearing must be served on the person appealing the order, specifying the time and place of a hearing to be held regarding the order of the City Engineer, and directing the person appealing to show cause why the order of the City Engineer should not be upheld. Unless the Engineer has suspended the permit or ordered work to stop pursuant to Section 3-8-5-02, any order stopping all work shall be stayed until after the hearing. The notice must be served personally or by registered or certified mail at least five (5) days before the hearing. The evidence submitted at the hearing shall be considered by the City Manager Or his/her designee,, who shall then shall either, uphold, modify or rescind the order of the City Engineer. An appeal of the decision may be taken to the District Court according to law. Provided, that if the City Manager or his/her designee upholds the order stopping work, such work suspension shall not be stayed as a result of the appeal to the District Court.

3-8-5-06: LEGAL ACTION. The discharge of deposited or eroded materials onto public rights-of-way or public storm sewer systems within the City of Moorhead shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the Landowner's and/or Permittee expense based on the properties from which they originated. The Landowner and/or Permittee shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed, others may remove them under the City Engineer's direction and any associated costs shall be the responsibility of the Landowner or Permittee and, if unpaid within 90 days, may be recommended for assessment action by the City Council against property of the violator.

If any person commences any land disturbing activities which result in increased Storm Water quantity or Storm Water quality degradation into the City's Storm Water Management System contrary to the provisions

of this chapter, federal or state requirements or any order of the City Engineer, the City Attorney may, commence action for appropriate legal and/or equitable relief including administrative or criminal penalties.

3-8-6

ENFORCEMENT, PENALTIES AND NONCOMPLIANCE FEES

Subsections:

- 3-8-6-01: Enforcement, Penalty and Noncompliance Fees
- 3-8-6-02: Cost of Damage
- 3-8-6-03: City Attorney's Fees and Costs
- 3-8-6-04: Falsifying Information
- 3-8-6-05: Penalties
- 3-8-6-06: Severability

3-8-6-01: **ENFORCEMENT, PENALTY AND NONCOMPLIANCE FEES.** Any person who is found to have violated an order of the City Engineer made in accordance with this chapter, or who has failed to

comply with any provision of this chapter and the orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day on which a violation occurs or continues to exist shall be deemed a separate and distinct offense. All land use and building permits may be suspended until the applicant has corrected the violation. A schedule for noncompliance and re-inspection fees, which may be imposed for violation of this chapter, shall be approved by the City Council.

3-8-6-02: **COSTS OF DAMAGE.** Any person violating any of the provisions of this chapter or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's Storm Water Management System is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this chapter the costs for any cleaning, repair or replacement work caused by the violation of storm water discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property.

3-8-6-03: **CITY ATTORNEY'S FEES AND COSTS.** In addition to the civil penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder.

3-8-6-04: **FALSIFYING INFORMATION.** Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, permit or other document filed or required to be maintained pursuant to this chapter, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this chapter, shall be guilty of an offense.

3-8-6-05: **PENALTIES.** Any person violating any provision of this chapter, in addition to other sanctions set forth above, may be charged with a criminal misdemeanor, and if convicted may be penalized in accordance with the provisions of Section 1-4-2 of the Code, or alternatively, may be charged with an administrative violation pursuant to Section 1-4-4 of this Code.

3-8-6-06: **SEVERABILITY.** If any section, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 2. This Ordinance shall take effect upon publication in accordance with the Moorhead City Charter.

PASSED by the City Council of the City of Moorhead this ____ day of _____, 2005.
APPROVED BY:

MARK VOXLAND, Mayor

ATTEST:

KAYE E. BUCHHOLZ, City Clerk

First Consideration: February 22, 2005

Second Consideration:

Date of Publication:

TITLE AND SUMMARY OF ORDINANCE NO. 2005-2

The following Ordinance is hereby published by title and summary:

1. Title of Ordinance:

An Ordinance to Create and Enact Title 3, Chapter 8 of the City of Moorhead Code of Ordinances, Relating to Storm Water Management

2. Summary of Ordinance:

This ordinance creates and enacts Title 3, Chapter 8 of the Moorhead City Code, which chapter sets forth uniform requirements for storm water management systems within the City of Moorhead.

This Chapter applies in the City of Moorhead, Minnesota and to persons outside the City who are, by contract or agreement with the City, users of the City storm water management system. Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this Chapter.

This Ordinance shall take effect upon publication in accordance with the Moorhead City Charter.

3. Availability of Ordinance:

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the office of the City Clerk, Third Floor, City Hall, 500 Center Avenue, Moorhead, Minnesota.

This Ordinance was passed by the City Council of the City of Moorhead on the 18th day of, April 2005.

APPROVED:

MARK VOXLAND, Mayor

ATTEST:

KAYE BUCHHOLZ, City Clerk

Date of Publication: