Title XV Land Usage

Chapter 152: Subdivisions

Division 04 Stormwater Management

Part 1 Authority

152.04.11 Purpose

The general purpose of this Division is to establish regulatory requirements for land development and land disturbing activities within the City in order to minimize the threats to public health, safety, public and private property, and natural resources from construction site erosion and post-construction stormwater runoff. The following performance goals are established for all development under this Division:

A. Meet minimum impact design standards (MIDS) performance goals;
B. Assist in meeting construction stormwater general permit requirements;
C. Assist in meeting total maximum daily load (TMDL) plan wasteload allocations for impaired waters through quantification of load reductions;
D. Protect life and property from dangers associated with flooding and maintain or decrease the incidence and levels of flooding;
E. Protect public and private property and natural resources from damage resulting from stormwater runoff and erosion;
F. Ensure the annual stormwater runoff rates and volumes from post development site conditions mimic and/or reduce the annual runoff rates and volumes from predevelopment site conditions;
G. Minimize the generation of stormwater runoff and maximizes pervious areas for stormwater treatment;
H. Protect water quality from pollutant loadings of sediment, suspended solids, nutrients, heavy metals, toxins, debris, bacteria, pathogens, biological impairments, thermal stress, and other pollutants;
I. Promote infiltration and groundwater recharge;
J. Provide vegetated corridors (buffers) to protect water resources from development;
K. Protect functional values of all types of natural waterbodies (e.g., rivers, streams, wetlands, lakes, seasonal ponds); and
L. Protect, sustain or enhance biodiversity (native plant and animal habitat) and support riparian ecosystems.

152.04.12 Statutory Authorization

A. This Division is adopted pursuant to the authorization and policies contained in Minn. Stat.Ch. 103B and 462; Minn. Admin. Rules pts. 6120.2500 - 6120.3900; and Minn. Admin. Rules Ch. 8410 and 8420, as amended from time to time.
B. This Division is intended to meet the current construction site erosion and sediment control and post-construction stormwater management regulatory requirements for construction activity and small construction activity (NPDES Permit) as defined in 40 C.F.R. pts. 122.26(b)(14)(x) and (b)(15), respectively.
C. This Division is intended to meet the Minimal Impact Design Standards (MIDS) developed under Minn. Stat. § 115.03 Subd. 5c, as amended from time to time.

152.04.13 Applicability

A. Land shall not be developed for any use without having provided stormwater management measures and erosion and sediment control measures that control or manage stormwater runoff from such developments.

B. The City shall require that a stormwater pollution prevention plan (SWPPP) or an erosion and sediment control (ESC) plan be completed, submitted for review, and approved by the City. Applicants will complete either a SWPPP or an ESC Plan, but not both, as described in Items 1 and 2 below.

1. An approved stormwater pollution prevention plan (SWPPP) shall be required prior to any proposed land development activity that meets any of the criteria in Items a through e below, unless otherwise exempted in Section 152.04.14:
    a. Any land development activity that may ultimately result in the disturbance of one or more acres of land, including smaller individual sites that are part of a common plan of development that may be constructed at different times;
    [NOTE: A Construction Stormwater General permit from the MPCA is also required if one (1) or more acres of land will be disturbed].
    b. Land development activity involving discharges to an impaired water as described in the TMDL 303(d) list;
    c. A subdivision plat;
    d. The construction of any new public or private road; or
    e. Any land development activity, regardless of size, that the City determines is likely to cause an adverse impact to an environmentally sensitive area or other property.
2. An approved erosion and sediment control (ESC) plan shall be required prior to any proposed land disturbing activity that meets any of the criteria in Items a through d below, unless otherwise exempted in Section 152.04.14:
    a. Disturbs a total land surface area of between 3,000 square feet and one (1) acre;
    b. Involves excavation or filling, or a combination of excavation and filling, in excess of 25 cubic yards of material;
    c. Involves the laying, repairing, replacing, or enlarging and/or boring of an underground utility, pipe or other facility, or the disturbance of road ditch, grass swale or other open channel for a distance of 300 feet or more [NOTE: A Right-of-Way Excavation permit from the City of Lindstrom, Chisago County, or State of Minnesota may be required for work within the public right-of-way];
    d. A land disturbing activity, regardless of size, that the City determines is likely to cause an adverse impact to an environmentally sensitive area or other property, or may violate any other erosion and sediment control standard set forth in this Division.

152.04.14 Exemptions

The following activities shall be exempt from all of the requirements of this Division:

A. Emergency work necessary to protect life, limb, or property, and emergency repairs. If 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.

B. Routine agricultural activity such as tilling, planting, harvesting, and associated activities. Other agricultural activities are not exempt including activities such as construction of structures.

C. Silvicultural activity (i.e., forestry).

Part 2 Design Standards

152.04.21 Design Criteria

A. Site Design Process

1. Whenever possible, new development projects shall be designed using the “better site design techniques” of the current version of the Minnesota Stormwater Manual available at: http://stormwater.pca.state.mn.us/index.php/Better_site_design.
2. Better site design involves techniques applied early in the design process to preserve natural areas, reduce impervious cover, distribute runoff and use pervious areas to more effectively treat stormwater runoff. Site design should address open space protection, impervious cover minimization, runoff distribution and minimization, and runoff utilization through considerations such as:
    a. Open Space Protection and Restoration
        i. Conservation of existing natural areas (upland and wetland);
        ii. Reforestation;
        iii. Re-establishment of prairies;
        iv. Restoration of wetlands;
        v. Establishment or protection of stream, shoreline and wetland buffers; and
        vi. Re-establishment of native vegetation into the landscape.
    b. Reduction of Impervious Cover
        i. Reduce new impervious cover through redevelopment of existing sites and use of existing roadways, trails, etc.;
        ii. Minimize street width, parking space size, driveway length, sidewalk width; and
        iii. Reduce impervious surface footprint (e.g. two-story buildings, parking ramp).
    c. Distribution and Minimization of Runoff
        i. Utilize vegetated areas for stormwater treatment (e.g. parking lot islands, vegetated areas along property boundaries, front and rear yards);
        ii. Direct impervious surface runoff to vegetated areas or to designed treatment areas (roofs, parking, driveways drain to pervious areas, not directly to storm sewer or other conveyances);
        iii. Encourage infiltration and soil storage of runoff through grass channels, soil compost amendment, vegetated swales, rain gardens, etc.; and
        iv. Plant vegetation that does not require irrigation beyond natural rainfall and runoff from the site.
    d. Runoff Utilization
        Capture and store runoff for use for irrigation in areas where irrigation is necessary.
3. Stormwater Criteria
    The following general criteria shall be incorporated in site design for stormwater runoff to protect surface and ground water and other natural resources by maintaining pre-development hydrological conditions:
    a. Reduce impacts on water;
    b. Protect soils;
    c. Preserve vegetation;
    d. Decrease runoff volume;
    e. Decrease erosion and sedimentation;
    f. Decrease flow frequency, duration, and peak runoff rates;
    g. Increase infiltration (groundwater recharge);
    h. Maintain existing flow patterns;

i. Reduce peak flows;
j. Store stormwater runoff on-site; and
k. Avoid channel erosion.

4. Erosion and Sediment Control Criteria
   The following general criteria shall be incorporated in site design for erosion and sediment control:
   a. Minimize disturbance of natural soil cover and vegetation;
   b. Minimize, in area and duration, exposed soil and unstable soil conditions;
   c. Protect receiving water bodies, wetlands, and storm sewer inlets;
   d. Protect adjacent properties from sediment deposition;
   e. Minimize off-site sediment transport on trucks and equipment;
   f. Minimize work in and adjacent to water bodies and wetlands;
   g. Maintain stable slopes;
   h. Avoid steep slopes and the need for high cuts and fills;
   i. Minimize disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing; and
   j. Minimize the compaction of site soils.

B. Other Design Standards
   1. All volume control for water quality and quantity and site design specifications shall conform to the current version of the Minnesota Stormwater Manual.
   2. All erosion and sediment control requirements shall conform to the current requirements of NPDES/SDS construction stormwater general permit.
   3. Public stormwater detention facilities must be located on public property and accessed by a 30 foot easement.
   4. It is the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

152.04.22 Performance Goals

A. Stormwater Volume Reduction Performance Goals
   Any applicant for a permit resulting in site disturbance that creates one (1) or more acres of new impervious surface or fully reconstructs one (1) or more acres of impervious surface must meet all of the following stormwater performance goals:
   1. New Development Volume Control
      For new, nonlinear developments that create more than one (1) acre of new impervious surface on sites without restrictions, stormwater runoff volumes will be controlled and the post-construction runoff volume shall be retained on site for one (1) inch of runoff from all impervious surfaces on the site.
   2. Redevelopment Volume Control
      Nonlinear redevelopment projects on sites without restrictions that create one (1) or more acres of new and/or fully reconstructed impervious surfaces shall capture and retain on site one (1) inch of runoff from the new and/or fully reconstructed impervious surfaces.
   3. Linear Development Volume Control
      Linear projects on sites without restrictions that create one (1) acre or greater of new and/or fully reconstructed impervious surfaces, shall capture and retain the larger of the following:
      a. 0.55 inch of runoff from the new and fully reconstructed impervious surfaces on the site; or
      b. One (1) inch of runoff from the net increase in impervious area on the site.
      c. Mill and overlay and other resurfacing activities are not considered fully reconstructed.
   4. Stormwater Management Rate Control

For all development sites (new development, redevelopment and linear developments), site design shall provide on-site treatment during construction and post-construction to ensure no increase in offsite peak discharge for the one year, 24-hour storm event (2.42 inches); two-year, 24-hour storm event (2.81 inches); the ten-year, 24-hour storm event (4.12 inches); and the 100-year, 24-hour storm event (6.72 inches) or as defined by the NOAA Atlas 14 Precipitation Frequency Estimates for Minnesota.

5. All detention facilities shall be designed with a minimum of 24 inches of freeboard measured to the lowest opening of adjacent structures. A spillway and overflow route must be able to safely pass overflows through the structure without creating damaging conditions downstream of the facility nor inhibit stormwater runoff from upstream development.

B. Flexible Treatment Options for sites with restrictions (as found in the MIDS design sequence flowchart). The MIDS Design Sequence Flowchart can be found in the Minnesota Stormwater Manual: http://stormwater.pca.state.mn.us/index.php/Flexible_treatment_options.
Applicant shall fully attempt to comply with the appropriate performance goals described above. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site. If full compliance is not possible due to any of the factors listed below, the applicant must document the reason. If site constraints or restrictions limit the full treatment goal, the following flexible treatment options shall be used:

1. Alternative #1
   Applicant attempts to comply with the following conditions:
   a. Achieve at least 0.55-inch volume reduction from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site;
   b. Remove 65 percent of the annual total phosphorous (TP) load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site; and
   c. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.
2. Alternative #2
   Applicant attempts to comply with the following conditions:
   a. Achieve volume reduction to the maximum extent practicable;
   b. Remove 60 percent of the annual total phosphorous (TP) load from all impervious surfaces if the site is new development or from the new and/or fully reconstructed impervious surfaces for a redevelopment site; and
   c. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.
3. Alternative #3: Off-Site Treatment
   Mitigation equivalent to the performance of 1.1 inches of volume reduction for new development or redevelopment as described above in this section (including banking or cash) can be performed off-site to protect the receiving water body. Off-site treatment shall be achieved in areas selected in the following order of preference:
   a. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity;
   b. Locations within the same Department of Natural Resource (DNR) catchment area (Hydrologic Unit 08) as the original construction activity;
   c. Locations within the next adjacent DNR catchment area upstream; and
   d. Locations anywhere within the City's jurisdiction.
4. Applicant shall document the flexible treatment options sequence starting with Alternative #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed. Applicants must document

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

5. Volume reduction techniques considered shall include infiltration, reuse and rainwater harvesting, and canopy interception and evapotranspiration and/or additional techniques included in the MIDS Calculator and the Minnesota Stormwater Manual.
6. Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.
7. Factors to be considered for each alternative will include:
    a. Karst geology;
    b. Shallow bedrock;
    c. High groundwater;
    d. Hotspots or contaminated soils;
    e. Drinking water source management areas or within 200 feet of drinking water well;
    f. Zoning, setbacks or other land use requirements;
    g. Excessive cost; and
    h. Poor soils (infiltration rates that are too low or too high, problematic urban soils).

152.04.23 Methodologies and Computations

A. Final site design and choice of permanent stormwater volume reduction practices shall be based on outcomes of the MIDS calculator (or other model that shows the performance goal can be met) and shall meet the performance goals of this Division. The MIDS calculator is available at: http://stormwater.pca.state.mn.us/index.php/Calculator.
B. Rate control calculations shall be modeled in HydroCAD, SWMM, or equivalent as approved by the City.

152.04.24 Site Standards

A. Wetlands
The Wetland Conservation Act, as administered by the City's designated wetland authority, must be followed when encountering any wetlands.
B. Storage Piles
Any soil or dirt storage piles containing more than 10 cubic yards of material should not be located with a down-slope drainage length of less than 25 feet from the toe of the storage pile to a roadway or drainage channel. If remaining for more than seven (7) days, it must be stabilized by mulching, vegetative cover, tarps or other means. Soil deposit piles that will be in existence for less than seven (7) days must be controlled by placing straw bales or silt barriers around the storage pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven (7) days the storm drain inlets must be protected with straw bales or other appropriate filtering barriers.
C. Permanent Stabilization
A uniform perennial vegetative cover (e.g., evenly distributed, without large bare areas) with a density of 70 percent of the native background vegetative cover for the area must be established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures.
D. Site Dewatering
    1. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels of a wetland.

2. Dewatering may require a Minnesota Department of Natural Resources (DNR) water appropriation permit. If dewatering water is contaminated, discharge of such water may require an individual MPCA NPDES/SES permit.

E. Waste and Material Disposal
All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials, shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

F. Tracking
Graveled roads, access drives and parking areas must be of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning, not flushing, before the end of each workday.

G. Drains
1. All storm drain inlets must be protected during construction with a barrier approved by the City until control measures are in place which meets accepted design criteria, standards and specifications.
2. All drain leaders must be routed to storm sewer facilities or pervious areas wherein the runoff can be allowed to infiltrate.
3. The flow rate of water from the leaders must be controlled so no erosion occurs in the previous areas.

Part 3 Inspections and Maintenance

152.04.31 Applicant Responsibilities

A. The applicant is responsible for inspections and record keeping during and after construction for all privately-owned stormwater treatment practices on the site.

B. Inspection by the City
The City reserves the right to conduct inspections on a regular basis to ensure that both temporary and permanent stormwater management and erosion and sediment control measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. Mandatory inspections will be conducted as follows:
1. Before any land disturbing activity begins;
2. Before or during the installation of permanent stormwater treatment systems;
3. At the time of footing inspections;
4. At the completion of the project; and
5. Prior to the release of financial securities.

152.04.32 City-Owned Stormwater Facilities

A. Before work under the permit is deemed complete, the permittee must submit as-builts and a maintenance plan demonstrating at the time of final stabilization that the stormwater facilities conform to design specifications. A final inspection shall be required before the City accepts ownership of the stormwater facilities.

B. The City shall perform maintenance of City-owned stormwater facilities in accordance with their comprehensive stormwater management plan and other regulatory requirements.

152.04.33 Private Stormwater Facilities

A. No private stormwater facilities may be approved unless a maintenance plan is provided that defines who will conduct the maintenance, the type of maintenance and the maintenance intervals. At a minimum, all private stormwater facilities shall be inspected annually and maintained in proper condition consistent with the performance goals for which they were originally designed.

B. Access to all stormwater facilities must be inspected annually and maintained as necessary. The applicant shall obtain all necessary easements or other property interests to allow access to the facilities for inspection or maintenance for both the responsible party and the City.
C. All settled materials including settled solids, shall be removed from ponds, sumps, grit chambers, and other devices, and disposed of properly.
D. All stormwater facilities within the City shall be inspected by the City during construction, during the first year of operation, and at least once every five (5) years thereafter.

152.04.34 Inventory of Stormwater Facilities

A. Upon adoption of this Division, the City shall inventory and maintain a database for all private, public, and City-owned stormwater facilities within the City requiring maintenance to assure compliance with this Division.
B. The City shall notify owners of stormwater facilities of the need for conducting maintenance on an appropriate schedule based on the stormwater management practice.

152.04.35 Right of Entry and Inspection

The issuance of a permit constitutes a right-of-entry for the City or its contractor to enter upon the construction site. The applicant shall allow the City and their authorized representatives, upon presentation of credentials, to:

A. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys;
B. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations;
C. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit;
D. Inspect the stormwater management measures;
E. Sample and monitor any items or activities pertaining to stormwater management measures; and
F. Correct deficiencies in stormwater and erosion and sediment control measures.

Part 4 Procedures

152.04.41 Process

A. Pre-Application Meeting
   A pre-application meeting between the applicant, City Staff (or their authorized representative), and staff of relevant partner agencies (e.g. SWCD, MPCA, DNR, etc.) is required prior to submission of a permit application.
B. Submittal
   A permit application shall be filed following the requirements listed in the City's Application Manual.
C. Review Process
   1. The City Engineer shall review the application and plans and refer them to City Staff and other applicable agencies for review.
   2. The City Engineer shall approve, approve with conditions, or deny the permit application and provide the applicant with written notice of the decision and reasons for approval or denial.
D. Effect of Decision
   1. Construction shall commence in accordance with the plan within one (1) year after the approval of the plan, or approval of the plan shall be considered void.
   2. Prior to the expiration of plan approval, the applicant may make a written request to the City for an extension of time to commence construction, specifying the reasons for the requested extension. The City may grant one extension of not greater than one (1) year.

3. No work shall commence on any construction activity subject to this Division until a permit has been authorized by the City.
4. Prior to start of construction, the Developer shall obtain all regulatory agency permits and approvals including those from the Minnesota Pollution Control Agency for “General Storm Water Permit for Construction Activity”, and the signature of the company responsible for erosion and sediment control plan preparation, implementation and maintenance.
5. Permit Denial
    a. If the City denies a permit application, a new application must be resubmitted for approval before any activity may begin. All land use and building permits shall be held until the applicant has an authorized permit. The decision of the City may be appealed as provided in Section 152.05.17.

E. Amendment of Permitted Plans
1. The applicant must amend an approved ESC Plan or SWPPP to include additional requirements such as additional or modified best management practices (BMPs) designed to correct problems whenever:
    a. There is a change in design, construction, operation, maintenance, weather or seasonal conditions that has a significant effect on the discharge of pollutants to surface water or ground water;
    b. Inspections or investigations by site operators, local, state or Federal officials indicate the plans are not effective in eliminating or significantly minimizing the discharge of pollutants to surface water or underground water or that the discharges are causing water quality standard exceedances; or
    c. The plan is not achieving the general objectives of minimizing pollutants in stormwater discharges associated with construction activity.
2. Plan amendments shall follow the same procedure outlined in this Section.

152.04.42 Fees

A. All applications for a stormwater management plan approval must be accompanied by a processing and approval fee as determined by ordinance of the City Council. An escrow account may be required by the City to pay for actual engineering costs incurred by the City.

B. Financial Securities
1. Amount
    a. The City shall require financial securities from the applicant in an amount sufficient to cover the entirety of the estimated costs of permitted and remedial work based on the final design as determined by the City.
    b. An escrow amount, as defined in the City’s fee schedule and commensurate with the type of activity as determined by the City shall be paid by cash deposit to the City and shall be designated for erosion and sediment control. This deposit will be held by the City in a separate account.
2. Financial securities shall not be released until all permitted and remedial work is completed.
3. Financial securities may be used by the City to complete work not completed by the applicant.
4. Form of Security
   The form of the securities shall be one or a combination of the following to be determined by the City:
    a. Cash deposit;
    b. Irrevocable letter of credit in a form approved by the City; or
    c. Other forms and securities (e.g. disbursing agreement) as approved by the City.
5. Maintaining the Financial Security

If at any time during the course of the work the available balance falls below 50 percent of the required amount, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the City that the amount has fallen below 50 percent of the required amount the City may:

a. Withhold the scheduling of inspections related to the project; or
b. Revoke any permit issued by the City to the applicant for the project.

6. Action Against the Financial Security
   The City may access financial security for remediation actions if any of the conditions listed below exist. The City shall use the security to finance remedial work undertaken by the City or a private contractor under contract to the City, or to reimburse the City for all direct costs incurred in the process of remedial work including, but not limited to, Staff time and attorney's fees.
   a. Abandonment
      The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
   b. Failure to Implement the SWPPP or ESC Plan
      The applicant fails to conform to the grading plan and/or the SWPPP as approved by the City.
   c. Failure to Perform
      The techniques utilized under the SWPPP fail within one (1) year of installation.
   d. Failure to Reimburse City
      The applicant fails to reimburse the City for corrective action taken.
7. Proportional Reduction of the Financial Security
   When more than one-third (1/3) of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by one-third (1/3). When more than two-thirds (2/3) of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security to two-thirds (2/3) of the initial amount. This reduction in financial security will be determined by the City.
8. Returning the Financial Security
   The security deposited with the City for faithful performance of the SWPPP or the ESC plan and any related remedial work shall be released one (1) full year after the completion of the installation of all stormwater pollution control measures as shown on the SWPPP or ESC plan.
9. Emergency Action
   If circumstances exist such that noncompliance with this Division poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action. The City shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the City may be recovered from the applicant's financial security.

152.04.43 Permit Completion

Before work under the permit is deemed complete, the permittee must submit as-builts, a long term maintenance plan and information demonstrating that the stormwater facilities conform to design specifications. The City will verify that all design specifications have been met.

Part 5 Enforcement

152.04.51 General Provisions

A. The City shall be responsible for enforcing this Division.

B. Any person, firm or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both.
    1. Each day that a separate violation exists shall constitute a separate offense.
    2. All land use and building permits must be suspended until the developer has corrected the violation.

152.04.52 Enforcement Tools/Stop Work Orders

The City shall reserve the right to issue construction stop work orders when cooperation on inspections is withheld or when a violation has been identified that needs immediate attention to protect human health and/or the environment. If stormwater and/or erosion and sediment control management measures malfunction and breach the perimeter of the site, enter streets, other public areas, or waterbodies the City will assess the need for issuing a stop work order. The applicant shall immediately develop a cleanup and restoration plan, obtain the right of entry from the adjoining property owner if necessary, and implement the cleanup and restoration plan within 48 hours. If in the discretion of the City, the applicant does not repair the damage caused by the stormwater runoff, the City can complete the remedial work required and charge the cost to the applicant. If payment is not made within 30 days, payment will be made from the applicant's financial securities. An inspection by the City must follow before the construction project work can resume.

A. Construction Stop Work Order
    The City may issue construction stop work orders until stormwater management measures meet specifications and the applicant repairs any damage caused by stormwater runoff. An inspection by the City must follow before the construction project work can resume.
B. Other Actions to Ensure Compliance
    The City can take any combination of the following actions in the event of a failure by applicant to meet the terms of this Division:
    1. Withhold inspections or issuance of certificates or approvals;
    2. Revoke any permit issued by the City to the applicant;
    3. Conduct remedial or corrective action on the development site or adjacent site affected by the failure;
    4. Charge applicant for all costs associated with correcting the failure or remediating damage from the failure; if payment is not made within 30 days, payment will be made from the applicant's financial securities; or
    5. Bring other actions against the applicant to recover costs of remediation or meeting the terms of this Division.
C. Any person, firm or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor

152.04.53 Notification of Failure of the Permit

The City shall notify the permit holder of the failure of the permit's measures.

A. Initial Contact
    The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, 48 hours after notification by the City or 72 hours after the failure of erosion and sediment control measures, whichever is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish a contact, the City may proceed with corrective work. There are conditions when time is of the essence in controlling erosion. During such a condition the City may take immediate action, and then notify the applicant as soon as possible.
B. Erosion Off-Site

If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required. When restoration to wetlands and other resources is required, the applicant should be required to work with the appropriate agency to ensure that the work is done properly.

C. Erosion into Streets, Storm Sewers, Wetlands or Water Bodies
If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, storm sewers, wetlands, or other water bodies, prevention strategies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

D. Failure to Do Corrective Work
When an applicant fails to conform to any provision of this Division within the time stipulated, the City may take the following actions:
   1. Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a certificate of occupancy;
   2. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction; and
   3. Correct the deficiency or hire a contractor to correct the deficiency.
      a. The applicant will be required to reimburse the City for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within 30 days after costs are incurred by the City, payment will be made from the applicant's financial securities as described in Section 152.04.42.
      b. If there is an insufficient financial amount in the applicant's financial securities as described in Section 152.04.42, the City may certify the remaining amount to the County Auditor to be collected with property taxes levied against the property, pursuant to Minn. Stat. 366.012 and 415.01.