

ORDINANCE NO. 758

AMENDMENT OF THE CITY CODE RELATING TO

PART II – LAND DEVELOPMENT, CHAPTER 107 STORMWATER MANAGEMENT

The City Council of the City of Golden Valley hereby ordains as follows:

**Section 1. City Code Chapter 107, Stormwater Management, Section 107-1 Statutory Authorization and Purpose (d) is hereby amended as follows:**

- (d) This chapter is intended to meet the current construction site erosion, ~~and~~ sediment, ~~and~~ waste control, and post-construction stormwater management regulatory requirements for construction activity and small construction activity (NPDES permit) as defined in 40 CFR 122.26(b)(14)(x) and (b)(15), respectively.

**Section 2. City Code Chapter 107, Stormwater Management, Section 107-2. Definitions and General Provisions. (a) Definitions. "Final Stabilization" is hereby amended as follows:**

*Final Stabilization:* The establishment of permanent cover on the entire site. Final stabilization may include, but is not limited to, installation of vegetated areas, landscaped areas, paved surfaces, retaining walls, sewer and water valves adjusted to final grade, and compliance with any and all associated permit requirements, such as submission of as-built surveys.

**Section 3. City Code Chapter 107, Stormwater Management, Section 107-4. City Stormwater Management Permit. (a) Activities requiring a City Stormwater Management Permit. (1) (h) is hereby amended as follows:**

- h. Construction, expansion or modification of a stormwater management facility or stormwater BMPs, including but not limited to installation of aerators, fountains, or similar water moving devices.

**Section 4. City Code Chapter 107, Stormwater Management, Section 107-4. City Stormwater Management Permit. (b) Application Submittal Requirements. (5) is hereby amended as follows:**

- (5) Stormwater management plan and narrative. Plans must be prepared to City standards and the standards of BCWMC, MCWD, and MPCA, if applicable. ~~For construction sites equal to or greater than one acre or if a project is part of a common plan of development or sale that will collectively ultimately disturb greater than one acre, plans must be submitted that:~~ For construction sites equal to or greater than one acre, including projects less than one acre that are part of a larger common plan of development or sale, plans must be submitted that:
- a. Meet the requirements ~~of Part III and Part IV~~ of the NPDES construction stormwater permit issued by the Minnesota Pollution Control Agency, as amended.

- b. Meet the post-construction stormwater management requirements listed in Section 107-5.

**Section 5. City Code Chapter 107, Stormwater Management, Section 107-4. City Stormwater Management Permit. (c) *Application Review Process and Permit Approval.* (2) is hereby amended as follows:**

- (2) *Permit Review and Decision.* When the City and the appropriate watershed management organizations review permit applications, or development proposals, ~~the~~ Administrator shall notify the applicant of permit approval or denial within 60 days of receipt of a complete application.

**Section 6. City Code Chapter 107, Stormwater Management, Section 107-4. City Stormwater Management Permit. (d) *Performance Standards for Construction Site Stormwater Runoff Control.* (5) is hereby amended as follows:**

- (5) Projects with land disturbing ~~and on-site~~ activities equal to or greater than one acre ~~or if a project is part of a common plan of development or sale that will ultimately disturb greater than one acres,~~ including projects less than one acre that are part of a larger common plan of development or sale, shall meet the requirements of ~~the Part III and Part IV of the~~ NPDES construction stormwater permit issued by the Minnesota Pollution Control Agency, as amended, for erosion and sediment controls and waste controls.

**Section 7. City Code Chapter 107, Stormwater Management, Section 107-4. City Stormwater Management Permit. (e) *Applicant Responsibilities.* (1)(b) is hereby amended as follows:**

- b. Project complete inspection: when the project is complete, including, but not limited to, final grading, installation of all stormwater management facilities, removal of all temporary erosion and sediment control BMPs, and completion of final stabilization ~~measures are complete.~~ One-year warranty begins after inspector approves project.

**Section 7. City Code Chapter 107, Stormwater Management, Section 107-4. City Stormwater Management Permit. (f) *Financial Security.* (1) is hereby amended as follows:**

- (1) *Amount and Type.* The applicant shall provide security for the performance of work to provide all temporary and permanent erosion and sediment control measures, and including final stabilization, described and delineated in the approved permit in an amount not less than 125 percent of the approved estimated cost of performing the described work. The type of the security shall be one or a combination of the following to be determined by the Administrator:

**Section 8. City Code Chapter 107, Stormwater Management, Section 107-5. Post-Construction Stormwater Management. is hereby amended as follows:**

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**Sec. 107-5. Post-Construction Stormwater Management.**

- (a) The following projects must include a site plan with post-construction stormwater management BMPs that meet the requirements of this chapter and are designed, constructed, and maintained in accordance with the NPDES construction stormwater permit:
- (1) New development and redevelopment projects with land disturbance of greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale.
  - (2) Nonresidential development and redevelopment projects greater than one-half acre and less than one acre that, at the time of permitting application, discharge stormwater through their private systems directly to a surface water without being routed through do not drain to a stormwater management facility or BMP onsite or on an adjacent property authorized by the adjacent property owner through a recorded easement and maintenance agreement.
- (b) Rate control. Post-construction stormwater runoff rates must not exceed pre-project rates for the two-, 10-, and 100-year 24-hour precipitation events.
- (c) Volume control. New development and redevelopment projects on sites without prohibitions that create one or more acres of new or fully reconstructed impervious surfaces shall capture and retain 1.1 inches of runoff from the sum of the new impervious surface and the fully reconstructed impervious surface.
- (d) Design. Stormwater volume control techniques and green infrastructure practices, including, but not limited to, infiltration, evapotranspiration, reuse/harvesting, conservation design, urban forestry, and green roofs, must be considered first ~~shall be given preference~~ as design options, provided they are consistent with City zoning, subdivision, and planned unit development requirements, and sanitary sewer inflow and infiltration reduction requirements.
- (e) Site Location. Above ground (surface) post-construction stormwater management BMPs are the preferred design option. Below ground (subsurface) shall be allowed only if:
- (1) the project is a redevelopment; and
  - (2) in the opinion of the City, no above ground design option is practicable.
- ~~(d)~~ The minimal impact design standards (MIDS) and performance goals developed under and pursuant to Minn. Stats. § 115.03, subd. 5c, along with the MIDS calculator and design sequence flowchart, and design criteria in the Minnesota Stormwater Manual, is the ~~recommended~~ preferred method for achieving the post-construction stormwater management requirements described in this chapter, consistent with BCWMC requirements.
- ~~(e) For new development projects there shall be no net increase from pre-project conditions (on an annual average basis) of:~~

~~(1) Stormwater discharge volume, unless precluded by the stormwater management limitations in Subsection (g) of this section.~~

~~(2) Stormwater discharges of total suspended solids (TSS).~~

~~(3) Stormwater discharges of total phosphorus (TP).~~

~~(f) For redevelopment projects there shall be a net reduction from pre-project conditions (on an annual average basis) of:~~

~~(1) Stormwater discharge volume, unless precluded by the stormwater management limitations in Subsection (g) of this section.~~

~~(2) Stormwater discharges of TSS.~~

~~(3) Stormwater discharges of TP.~~

(g) Stormwater management limitations and exceptions.

(1) *Limitations.*

a. *Infiltration Prohibited.* The use of infiltration techniques ~~are~~is prohibited when the infiltration structural stormwater BMP will receive discharges from, or be constructed in, the following areas:

1. Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS industrial stormwater permit.
2. Where vehicle fueling and maintenance occur.
3. Where less than three feet of separation from the bottom of the infiltration system to the elevation of the seasonally saturated soils, groundwater, or the top of bedrock exists.
4. Where high levels of contaminants in soil or groundwater will be mobilized by infiltrating stormwater.
5. Within 25 feet of a sanitary sewer pipe due to the possibility of inflow and infiltration of clear water into the sanitary sewer system.

~~b. *Infiltration Restricted.* The use of infiltration techniques will be restricted when the infiltration device will be constructed in areas:~~

~~61.~~ 61. —In an area wwith predominately Hydrologic Soil Group D (clay) soils.

~~27.~~ 27. Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.

~~38.~~ 38. In an Emergency Response Area (ERA) wWithin a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, Subp. 13, classified as moderate vulnerability unless the applicant performs a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater.

- 9. In an ERA within a DWSMA classified as high or very high vulnerability as defined by the Minnesota Department of Health.
- 10. Outside of an ERA within a DWSMA classified as high or very high vulnerability unless the applicant performs a higher level of engineering review sufficient to provide a functioning treatment system and to prevent adverse impacts to groundwater.
- 411. Where soil infiltration rates are more than 8.3 inches per hour unless soils are amended to slow the infiltration rate below 8.3 inches per hour.

~~e~~b. *Linear Projects.*

—1. Linear projects on sites where infiltration is not prohibited or restricted that create one ~~acre~~ or more acres~~greater~~ of new a

~~1. nd/or fully reconstructed impervious surfaces, shall capture and retain the larger of the following: 1.1 inches of runoff from the net increase in impervious surface; or, 0.55 inches of runoff from the sum of the new and fully reconstructed impervious surface. ~~meet the requirements of Subsection (e) of this section for the increase in impervious surface.~~~~

1. ~~2. Linear projects on sites where infiltration is prohibited or restricted that create one acre or greater of fully reconstructed surface, shall meet the requirements of Subsection (f) of this section for the impervious surface.~~

~~2~~3. Mill and overlay and other resurfacing activities are not considered fully reconstructed.

~~3~~4. Where the entire water quality volume cannot be treated within the existing right-of-way, A reasonable attempt must be made to obtain additional right-of-way, property, or easements during the project planning process ~~for volume control practices.~~ Volume reduction practices must be considered first. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, property, or easements cannot be obtained, owners of the construction activity must maximize the treatment of the water quality volume prior to discharge to the City's storm sewer system and surface waters. For linear projects where the lack of right-of-way or property precludes the installation of volume control practices to meet Subsection (g)(1)~~b~~e.1 or 2 of this section, exceptions as described in Subsection (g)(2) of this section can be applied.

(2) *Exceptions.* A lesser volume control standard on the site of the original construction activity may be applied, at the discretion of the City, under the following circumstances:

- a. The permittee or owner of the construction site is precluded from infiltrating stormwater due to limitations under Subsection (g)(1)~~a, b or c~~ of this section; and

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- b. The permittee or owner of the construction site implements volume reduction techniques, other than infiltration, on the site of the original construction activity that reduce stormwater discharge volume but may not meet the requirements of post-construction stormwater management; and,-
- c. The permittee or owner records all attempts of infeasibility, and the treatment of the water quality volume is maximized prior to discharge to the City's storm sewer system and surface waters.
- (h) Mitigation. ~~There may be circumstances where~~ if the City determines that the permittee or owner of a construction site cannot cost effectively meet the water quality conditions for post-construction stormwater management ~~for TSS and/or TP~~ on the site of the original construction activity. ~~For this purpose,~~ the City or permittee/owner shall identify locations where mitigation projects can be completed. ~~Any stormwater discharges of TSS and/or TP~~ The remaining water quality volume not addressed on the site of the original construction activity must be addressed through mitigation and, at a minimum, shall ensure the following requirements are met:
- (1) Mitigation project areas are selected in the following order of preference, with consultation and approval of the City:
    - 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 as the original construction activity.
    - c. Locations in the next adjacent DNR catchment area upstream.
    - d. Locations anywhere within the City.
  - (2) Mitigation projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP.
  - (3) Routine maintenance of structural stormwater BMPs already required by this chapter cannot be used to meet the mitigation requirements.
  - (4) Mitigation projects shall be completed within 24 months after the start of the original construction activity.
  - (5) The City shall determine, and document, who is responsible for long-term maintenance on all mitigation projects, - including the establishment of maintenance agreement(s) between the City and owners of structural stormwater BMPs not owned or operated by the City.
  - (6) If the City receives payment from the owner and/or permittee for mitigation purposes in lieu of the owner or permittee meeting the conditions for post-construction stormwater management, the City shall apply any such payment received to a public stormwater project, and all projects must be in compliance with this chapter.

**Section 9. City Code Chapter 107, Stormwater Management, Section 107-6. General Performance Standards. is hereby amended as follows:**

**Sec. 107-6. General Performance Standards.**

- (a) *Freeboard.* The elevation separation of buildings with respect to lakes, streams, ponds, basins, wetlands, and stormwater management facilities shall conform to the following:
- (1) All new and existing structures and uses located in the floodplain are subject to Section 113-125.
  - (2) For structures and uses located outside the floodplain, the following shall apply: The lowest floor elevation of all new principal and accessory structures, and additions to existing structures, shall be at least two feet above the calculated high water level of adjacent wetlands, basins, ponds, and stormwater management facilities, or be structurally floodproofed in accordance with Section 113-125. Calculated high water levels shall be determined by the City based on the relevant Federal, State, BCWMC, and City studies.
- (b) *Setbacks.* New principal and accessory structures, and additions to existing structures, shall be set back 25 feet from the following features:
- (1) A delineated wetland edge.
  - (2) The top of bank of a pond, filtration basin, infiltration basin, as determined by the Administrator unless such a feature is incorporated into the architectural design of the building and the construction plans are prepared and signed by a licensed structural engineer.
- (c) *Buffers.*
- (1) Native or natural vegetation buffers must be established or preserved in accordance with this chapter and the requirements of the BCWMC.
  - (2) The buffer zone widths are as follows:
    - a. *Streams.* Ten feet or 25 percent of the distance between the ordinary high water level and the nearest existing principal or accessory structure, whichever is less.
    - b. *Wetlands.* Based on a Minnesota Routine Assessment Methodology (MnRAM) classification or similar classification system, buffer widths will be as follows (measured from the delineated wetland edge):
      1. Preserve: 75 feet average and minimum of 50 feet.
      2. Manage 1: 50 feet average and minimum of 30 feet.
      3. Manage 2 or 3: 25 feet average and a minimum of 15 feet.
    - c. *Lakes.* Minimum of ~~15~~10 feet in width measured from the OHWL.
    - d. *Stormwater Management Facilities.* Buffers shall extend from the normal water level, or bottom of a dry basin, up to the top of bank of the stormwater

management facility, as determined by the Administrator, and shall be a minimum of 10 feet in width.

(3) The following standards shall guide the [protection](#), creation or restoration of buffers to achieve the goals and policies of the City's Surface Water Management Plan. The Administrator may modify or waive standards depending on each project site and goals for the water body.

a. The use of a meandering buffer strip to maintain a natural appearance is encouraged in areas of flat topography.

b. An access corridor, not to exceed 20 feet in width or 20 percent of the buffer edge, whichever is less, is permitted.

c. Accessory structures intended to provide access to wetlands such as [retaining walls](#), stairways and docks [are](#) permitted in the access corridor [so long as they conform with State regulations, BCWMC requirements, and other applicable chapters of City code](#).

~~1.~~ [Retaining walls and stairways must be constructed with natural materials, or materials with a natural appearance, and generally blend with the surrounding landscape.](#)

d. The City may require that ~~the a~~ buffer ~~may~~ be placed in a conservation easement.

~~1.~~ [For new development and redevelopment projects involving the platting or subdivision of land abutting or adjacent to a lake, wetland or stream, the City shall require that the buffer be placed in a conservation easement.](#)

e. Monuments identifying the conservation easement, designed in accordance with City standards, should be placed every 100 feet to delineate the buffer edge and at intersections with property lines.

f. Buffer strip vegetation should be appropriate ~~to~~for the [site conditions and](#) goals for the water body. Where acceptable natural vegetation exists in buffer strip areas, the retention of such vegetation in an undisturbed state is preferred.

(d) [Wetlands](#).

~~(1)~~ [The City generally follows the hydrologic guidelines and standards for bounce \(difference between the peak flood elevation and the normal wetland elevation\), inundation \(time that flood waters temporarily stored in the wetland exceed the normal wetland elevation\), and runout control \(elevation of the outlet\) listed in MnRAM Wetland Management Classification System Table 1.1 Recommended Wetland Management Standards found on the Minnesota Board of Water and Soil Resources website.](#)

~~(2)~~ [Runoff. New concentrated discharge or higher rates of runoff into a wetland without the installation of post-construction stormwater management BMPs shall be prohibited.](#)



(3) Outside Storage. Wetlands and their required buffers shall not be used for outside storage of household or personal items, lawn equipment, furniture, parts, yard waste, and the like.

(4) Impervious Surface. Wetlands and their required buffers shall be kept free of impervious surfaces excluding public roads, trails, bridges, and recreational facilities.

(5) Access. Structures intended to provide access across a wetland, including but not limited to stairways, docks, bridges, and boardwalks, shall be prohibited unless a permit is obtained in conformance with State regulations, BCWMC requirements, and other applicable chapters of City code.

(6) Structures. Structures that are not intended to provide access to wetlands, such as fences, walls, and play equipment shall not be located on wetlands.

(7) In scenarios of unavoidable wetland impact where replacement is proposed, replacement shall occur in the following order:

a. Replacement on site.

b. Replacement within subwatershed.

c. Replacement within watershed.

d. Replacement within the City.

e. Purchase of wetland bank credits within County and Bank Service Area pursuant to Minnesota Rules, Chapter 8420.

(e) Maintenance of private stormwater management facilities.

(1) No private stormwater management facilities may be approved unless a maintenance plan is provided and is consistent with City and/or BCWMC and MCWD standards. All such facilities shall be inspected annually or more often, with reports submitted to the City, and maintained in proper condition consistent with the performance standards for which they were originally designed.

(2) Owners of private stormwater management facilities shall enter into an agreement with the City describing responsibility for the long-term inspection, operation and maintenance of the facilities. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. The maintenance agreement shall be recorded against the parcel. The stormwater maintenance agreement shall be in a form approved by the City and shall describe the inspection and maintenance obligations of this section, and shall, at a minimum:

a. Designate the owner of the private facility, which shall be permanently responsible for the maintenance of the structural stormwater BMP.

b. Run with the land and pass the responsibility for such maintenance to successors in title.

c. Grant the City and its representatives the right of entry for the purposes of inspecting all private stormwater management facilities.

- d. Allow the City the right to repair and maintain the facility, and assess costs if necessary maintenance is not performed after proper and reasonable notice to the owner.
- e. Protect and preserve private stormwater management facilities. If the private stormwater management facility changes causing decreased effectiveness, then a new, repaired, or improved facility must be implemented to provide equivalent treatment to the original BMP.
- f. Include a requirement to provide and follow a Chloride Management Plan addressing the use of chloride on the site, type of deicer to be used, personnel certified for chloride application, rate of application for the site, and a map showing snow storage areas and sensitive areas to avoid application. The chloride management plan shall be updated annually.

(f) Aerators, fountains, or similar water moving devices. A permit may be issued to install and operate such devices within a privately-owned and maintained stormwater management facility or BMP, provided the following requirements are met:

(1) Stormwater management facility or BMP must have at least 5 feet of permanent depth where the device is installed.

(2) At least 75% of all property owners abutting the water body approve of the device, as evidenced by signatures on a petition submitted to the City. If the property owner is a common interest community, at least 75% of all unit owners shall approve of the device.

(3) Submittal of device/system specifics, documentation showing no negative water quality impacts to water body or downstream water bodies, documentation of qualified professional installer, maintenance and removal plan.

(4) No more than one horsepower motor or pump.

(5) Hours of operation are limited to 7am-10pm.

(6) Device shall only be operated between April 15 and October 15.

(7) Administrator may limit lighting, height, and width of spray.

(8) A permit is required for each stormwater management facility or BMP.

(9) Permit must be renewed each year.

**Section 10. City Code Chapter 107, Stormwater Management, Section 107-7. Stormwater and Urban Runoff Pollution Control. (b) *Illegal Discharges and Illicit Connections.* (1) is hereby amended as follows:**

- (1) No person shall cause any illegal discharge to enter the municipal stormwater system unless such discharge consists of non-stormwater that is authorized by an NPDES point source permit obtained from the MPCA or is ~~associated with firefighting activities~~ an exempt activity listed in section (b)(2) below.

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**Section 11. City Code Chapter 107, Stormwater Management, Section 107-7. Stormwater and Urban Runoff Pollution Control. (c) *Good Housekeeping Provisions.* (1) and (2) are hereby amended as follows:**

- (1) *Chemical or Septic Waste.* No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste [or pathogenic bacteria or viruses](#) in an area where discharge to streets or storm drain systems may occur. This chapter shall apply to both actual and potential discharges. For swimming pools, the chlorination system should be suspended for seven days to allow for chlorine to evaporate, [or the property owner may provide test results to the City showing the swimming pool water is fully dechlorinated,](#) before discharge to the owner's property or into the storm sewer system.
- (2) *Runoff Minimized.* Runoff of water from ~~residential an owner's~~all property shall be minimized to the maximum extent practicable. Runoff of water from the washing down of paved areas in commercial or industrial property is prohibited unless necessary for health or safety purposes and not in violation of any other provision of the City Code.

**Section 12.** This ordinance shall take effect from and after its passage and publication as required by law.

Adopted by the Golden Valley City Council this 7<sup>th</sup> day of February 2023.

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Shepard M. Harris, Mayor

ATTEST:

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Theresa Schyma, City Clerk