

**CITY OF ST. PAUL PARK
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 716

**AN ORDINANCE AMENDING THE CITY CODE REGARDING
STORMWATER MANAGEMENT**

WHEREAS, the City of St. Paul Park Minnesota, wishes to amend the Code of Ordinances, City of St. Paul Park, Minnesota, relating to Stormwater Management;

NOW THEREFORE, the City Council of the City of St. Paul Park, County of Washington, State of Minnesota, does hereby ordain as follows:

Section 1. The City Council of the City St. Paul Park hereby amends Section 74-9 to include or modify the following definitions:

Best Management Practices (BMPs) means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Contractor means the party who signs the construction contract or development agreement with the city to construct a project. Where the construction project involves more than one contractor, the general contractor shall be the contractor that is responsible pursuant to the obligations set forth in this ordinance.

Dewatering means the removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. Minnesota Department of Natural Resources permits are required to be appropriated and if contaminated may require other MPCA permits to be discharged.

Erosion means the wearing away of the ground surface as a result of movement of wind, water, ice and/or land disturbance activities.

Erosion Control means a measure that prevents erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

Final Stabilization means all soil disturbing activities at the site have been completed and a uniform (evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of approved vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed.

Land Disturbing Activity means 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, but not limited to, clearing, grubbing, grading, excavating, transporting and filling.

National Pollutant Discharge Elimination System (NPDES) Permit means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water

Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

Natural waterway means a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

Perimeter Sediment Control means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Permanent Cover means final site stabilization. Examples include turf, gravel, asphalt, and concrete.

Phasing means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Public Waterway means a body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the city or other state or federal agency.

Sediment means the product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface either above or below water level.

Sediment Control means the measures and methods employed to prevent sediment from leaving the site. Sediment control practices include 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.

Stabilized means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

Stormwater is defined under Minn. Rules, part 7077.0105, subp. 41(b), and includes precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

Stormwater Pollution Prevention Program (SWPPP) means a program for managing and reducing storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

Surface Waters or Waters means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.

Temporary Erosion Control means methods employed to prevent erosion. Examples of temporary cover include: straw, wood fiber blanket, wood chips, and erosion netting.

Waterway means any natural or artificial channel including associated flood plains which provide a course for water flowing either continuously or intermittently.

Water Conveyance Channel means any channel that conveys surface runoff throughout the site.

Wetland or Wetlands is defined in Minn. Rules, part 7050.0130, subp. F and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state.

Section 2. That Section 74-240 is hereby added to read as follows:

Section 74-240 – Stormwater Management. Every applicant for a land reclamation permit, subdivision approval, or a permit to allow land disturbing activities consisting of one acre of land or more must submit a stormwater management plan and an erosion control plan to the city that meets the criteria of the city's Engineering Design Standards. All construction sites regardless of size will be required to provide and maintain minimum erosion control measures during construction. No subdivision approval or permit to allow land disturbing activities shall be issued until approval of the stormwater management plan or a waiver of the approval requirement has been obtained in conformance with the provisions of this section.

(a) *Incorporation by reference.* The following are incorporated into this Chapter by reference:

- (1) The National Pollutant Discharge Elimination System Permit, MN R100001 (NPDES general construction permit) issued by the Minnesota Pollution Control Agency, August 1, 2013, as amended. The NPDES general construction permit is incorporated into this Chapter by reference.
- (2) The city's Surface Water Management Plan, as amended.
- (3) The city's Engineering Design Standards, as amended. The Standards shall serve as the official guide for stormwater principles, methods, and practices for proposed development activities. The city's Engineering Design Standards is incorporated into this Chapter by reference.

(b) *Financial security.* Upon approval of the stormwater management plan by the city council, the applicant shall submit a letter of credit, or cash escrow, to cover 125 percent of the amount of the established cost of complying with the stormwater management plan. This financial guarantee shall be in a form acceptable to the city.

The city may draw on the letter of credit or cash escrow after providing the permittee with at least five business days notice.

The city may act against the financial security if any of the conditions listed below exist:

- (1) The permittee ceases land-disturbing activities or filling and abandons the work site prior to completion of the plan;
- (2) The permittee fails to conform to the approved stormwater management plan;
- (3) The techniques utilized under the stormwater management plan fail within one year of installation; or
- (4) The city has determined that additional action on the site is necessary to prevent excessive erosion from occurring.

The city may use the funds from the financial security to reimburse itself for any remedial work undertaken by the city or its contractor, and for any administrative costs incurred in the process of performing the remedial work including, but not limited to, staff time and attorney's fees.

The financial security shall be released one year after the ground cover and other erosion control measures have been established. All temporary erosion control measures, such as silt fences, must be removed from the site prior to the city releasing the financial security.

- (c) *Stormwater management plan approval standards.* No stormwater management plan that fails to meet the standards contained in this section shall be approved by the city council. No land shall be disturbed until the plan is approved by the city engineer. At a minimum, applicants shall meet the specifications set forth in the city's Engineering Design Standards, and observe the standards established in the NPDES Construction Stormwater Permit and the city's surface water management plan.
- (d) *Inspection and maintenance.* The permittee or his/her agent shall also make regular inspections of all control measures in accordance with the inspection schedule outlined in the NPDES Construction Stormwater permit. Prior to any construction, the permittee shall provide the city with a schedule for erosion and sediment control inspection, street cleaning, and street sweeping, which meets the criteria of the city's Engineering Design Standards. The permittee shall be responsible for maintaining sediment and erosion control measures per the approved stormwater management plan. The city may, in its discretion, perform the work or contract to have the work completed and draw down on the escrow deposit, letter of credit or bond to pay any costs.
- (e) *General criteria.* All stormwater management plans must be submitted to the city engineer for approval prior to the start of construction activity. Standards for stormwater management shall be as follows:
 - (1) *Specifications.* At a minimum, applicants shall comply with the standards established in NPDES Construction Stormwater Permit requirements.
 - (2) *Design criteria.* Stormwater management plans shall meet the design criteria as provided in the city's Engineering Design Standards and the city's Surface Water Management Plan.
 - (3) *Maintenance Agreement.* The applicant shall enter into a maintenance agreement with the city that documents all responsibilities for operation and maintenance of long-term stormwater treatment BMPs. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. All maintenance agreements must be approved by the City and recorded at the Washington County recorder's office prior to final plan approval. At a minimum, the maintenance agreement shall describe the inspection and maintenance obligations:
 - a. The responsible party who is permanently responsible for maintenance of the structural and nonstructural measures.
 - b. Pass responsibilities for such maintenance to successors in title.
 - c. Allow the city and its representatives the right of entry for the purposes of inspecting all permanent stormwater management systems.
 - d. Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party of the permanent stormwater management system.

- e. Include a maintenance plan that contains, but is not limited to the following:
 - i. Identification of all structural permanent stormwater management systems;
 - ii. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to quality, temperature, and quantity of runoff;
 - iii. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each practice; and
 - iv. Include a schedule and format for reporting compliance with the maintenance agreement to the city.

- (4) *Right Of Entry.* The issuance of a permit constitutes a right-of-entry for the community or its contractor to enter upon the construction site. The applicant shall allow the community 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 pollution control measures.
 - e. Sample and monitor any items or activities pertaining to stormwater pollution control measures.
 - f. Correct deficiencies in stormwater and erosion and sediment control measures.

- (5) *Failure to Maintain Practices.* If a Responsible Party fails or refuses to meet the requirements of the Maintenance Agreement, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the storm water management facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the city shall notify the Responsible Party in writing. Upon receipt of that notice, the Responsible Party shall have thirty days to perform maintenance and repair of the facility in an approved manner. After proper notice, the city may specially assess the owner(s) of the storm water management facility for the cost of repair work and any

penalties; and the cost of the work shall be assessed against the property and collected along with ordinary taxes by the county.

- (f) *Search Warrants.* If city employees have been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.
- (g) *Penalty.* Any person, firm or corporation violating any provision of this ordinance shall be fined or penalized not more than the maximum levels established by the state for misdemeanor offenses or each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- (h) *Notice of Violation.* When the city determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
 - (1) The name and address of the owner of Applicant,
 - (2) The address when available or a description of the land upon which the violation is occurring,
 - (3) A statement specifying the nature of the violation,
 - (4) A description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action,
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed, and
 - (6) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 15 days of services notice of violation.
- (i) *Stop Work Orders.* Persons receiving a notice of violation will be required to halt all construction activities immediately. This Stop Work Order will be in effect until the city confirms that the Land Disturbance Activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.
- (j) *Civil and Criminal Penalties.* In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be guilty of a misdemeanor and subject to prosecution. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- (k) *Restoration of Lands.* Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which may, after notice and opportunity for hearing, be specially assessed against the property and collected along with the ordinary taxes by the county.

- (l) *Appeals.* Any person aggrieved by the action of any official charged with the enforcement of this ordinance, as the result of the disapproval of a properly filed application for approval, issuance of a written notice of violation, or an alleged failure to properly enforce the ordinance in regard to a specific application, shall have the right to appeal the action to the city.
 - (1) The Applicant shall submit the appeal in writing and include supporting documentation.
 - (2) City staff shall make a decision on the appeal within 15 business days of receipt of a complete appeal application.
 - (3) The Applicant may appeal the decision of city staff to the city council. This appeal must be filed with the city within 30 days of city staff's decision.

- (m) *Waiver of requirements.* The Zoning Administrator may waive certain requirements of this Section when related to sites where the land disturbance is less than one acre.

- (n) *Other controls.* In the event of any conflict between the provisions of this ordinance and the provisions of an erosion control or shoreland protection ordinance adopted by the City Council, the more restrictive standard prevails.

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

Section 3. That Section 62-62 Subdivision (4) be hereby amended to read as follows:

- (4) *Supplementary information.* Any or all of the supplementary information requirements set forth in this subsection (4) shall be submitted when deemed necessary by the city staff, consultants, advisory bodies and/or city council.
 - a. Proposed protective covenants.
 - b. An accurate soil survey of the subdivision prepared by a qualified person.
 - c. A survey prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing.
 - d. Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.
 - e. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the applicant.
 - f. Provision for surface water disposal, ponding, drainage, and flood control.
 - g. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, it shall be required that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivisions.
 - h. Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the preliminary plat shall indicate a logical way in which the lots could possibly be resubdivided in the future.
 - i. A plan for soil erosion and sediment control both during construction and after development has been completed that meets the requirements of the city's Engineering Design Standards. The plan shall include gradients of waterways, design of velocity and

erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system.

- j. A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, and the types and locations of trees and other vegetation that are to be planted.
- k. A financial statement of the developer in a form satisfactory to the city.
- l. Such other information as may be required.

Section 4. That Section 62-95 is hereby amended to read as follows:

62-95. Stormwater Management. Every application for a subdivision shall be required to submit a stormwater management plan as may be required by Section 74-240.

Section 5. That Section 26-34 Subsections (38) through (41) shall be amended to read as follows:

- (38) Property that has been disturbed by construction, grading, or other activity and is not seeded, sodded or otherwise planted with ground cover in compliance with Section 74-222.
- (39) Construction materials, including piles of dirt, sand, and sod, left in the open on property for more than 60 days after construction has been completed or a certificate of occupancy has been issued, whichever occurred first.
- (40) Erosion or stockpiling of any material onto a public street that is not part of a public improvement; or erosion or drainage from a property when it is causing, or has the likelihood of causing, serious harm to neighboring property or to natural resources such as significant trees, water bodies, wetlands, and wetland buffers. Serious harm includes actual damage as well as interference with reasonable use of the property.
- (41) All other conditions, acts or things which are liable to cause injury to the person or property of anyone.

Section 6. That Section 58-25 is hereby added to read as follows:

Section 58-25. Private Improvements & Landscaping In Public Right-of-Ways.


- (a) *City Control.* The City shall have control over the placement of landscaping materials, shrubs, trees, planting beds, and raingardens in the public right-of-way. No installation of may be permitted except as authorized by this Section.
- (b) *Owners risk.* The owners of contiguous property for which permits each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on any right-of-way has been issued will be solely responsible and at risk for the occupancy or use. The owners of contiguous property will be solely responsible and at risk for such establishment. Neither the City nor any utility who is authorized to locate their facilities in the street will be responsible for damage to any tree, planting bed, raingarden or sprinkler system, or other use or occupancy that may be damaged by any of their activities including without limitation snow plowing operations, street or utility installations, maintenance or repair. When necessary for the installation, operation, repair or maintenance of street, sidewalk or utility improvements, the contiguous property owners will, at their sole cost, locate, relocate, protect and or remove planting beds, raingardens, sprinkler systems, or other use or occupancy, from the street. In the event that the contiguous property owners fail to take such action within the time specified by the City or utility company, then the City or utility company may remove planting beds, raingardens, sprinkler systems, or other use or occupancy as necessary for

the conduct of their operations. Any permit issued will contain a clause providing for the recognition and acceptance of responsibility and risk by the contiguous property owners.

- (c) *Removal required.* The City Administrator or designee has the authority to require owners of contiguous property to remove any tree, shrubs, evergreens, flowers, or plants of any kind, planting bed, or raingarden planted or established without permit or that, in the opinion of the City Administrator or designee, are poorly maintained, is not designed in accordance with best management practices, will create a nuisance, will have the potential to damage the environment, or has the potential to cause damage to public or private property. Notice in writing of such removal will be served by regular mail upon the owners of the contiguous property. If the plantings are not removed within ten days after the mailing of such notice, the City Administrator or designee may cause them to be removed at the expense of the contiguous property owner. The expense of removal will be levied against the property as a special assessment and collected as in the case of other special assessments.
- (d) *Raingardens permitted.* Raingardens, meaning a vegetated swale designed to reduce stormwater runoff volume through infiltration and improve water quality through vegetative and soil filtration, may be installed with a permit from the City Administrator within the right-of-way by owners of adjacent property. All raingardens planned to be installed within the right-of-way must be permitted by the City prior to installation. A permit shall consist of providing the following application information and paying a permit fee in the same amount of the right-of-way registration fee:
- (1) Permit must include a dimensional site plan, construction specifications and planting details from the proposed raingarden installation.
 - (2) The species of plants to be used in the raingarden are subject to the approval of the City Administrator or designee.
 - (3) Raingarden permits will not be issued in situations where, in opinion of the City Administrator or designee, the raingarden is not designed in accordance with best management practices, will create a nuisance, will have the potential to damage the environment or has the potential to cause damage to public or private property.

Section 7. This ordinance shall be in full force and effect from and after its passage and publication according to law.

ADOPTED by the City Council of the City of St. Paul Park, Minnesota this 20th day of April 2015.


Keith Franke, Mayor

ATTEST:


Sharon Ornquist, City Clerk