

9 Erosion, Water management and Land Alteration

9.1 Statutory Authorization

- 9.1.1** This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes §§ 103B, 103D, and 462; Minnesota Rules Parts 6120.2500 to 6120.3900; and Minnesota Rules Chapters 8410 and 8420.
- 9.1.2** This ordinance is intended to meet the 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 CFR 122.26(b)(14)(x) and (b)(15), respectively.
- 9.1.3** This ordinance is intended to meet the Minimal Impact Design Standards (MIDS) developed under Minnesota Statutes § 115.03 subd. 5c.

9.2 Purpose

- 9.2.1** The purpose of this ordinance is to establish regulatory requirements for land development and land disturbing activities that minimize the threats to public health, safety, public and private property, and natural resources within the Township from construction site erosion and post-construction stormwater runoff. Specifically, the ordinance establishes regulatory requirements that:
 - 9.2.1.1** Meet MIDS performance standards;
 - 9.2.1.2** Assist in meeting NPDES/SDS Construction Stormwater General Permit requirements;
 - 9.2.1.3** Assist in meeting Total Maximum Daily Load (TMDL) plan wasteload allocations for impaired waters through quantification of load reductions;
 - 9.2.1.4** Assist in meeting policies and performance standards of the Middle St. Croix Water Management Organization (MSCWMO) and Valley Branch Watershed District (VBWD);
 - 9.2.1.5** Protect life and property from dangers associated with flooding;
 - 9.2.1.6** Protect public and private property and natural resources from damage resulting from stormwater runoff and erosion;
 - 9.2.1.7** 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;
 - 9.2.1.8** Ensure site design minimizes the generation of stormwater runoff and maximizes pervious areas for stormwater treatment within the context of the allowable use;
 - 9.2.1.9** Provide a single, consistent set of performance goals that apply to all developments;
 - 9.2.1.10** Protect water quality from pollutant loadings of sediment, suspended solids, nutrients, heavy metals, toxics, debris, bacteria, pathogens, biological impairments, thermal stress and other pollutants;
 - 9.2.1.11** Promote infiltration and groundwater recharge;
 - 9.2.1.12** Provide vegetated corridors (buffers) to protect water resources from development;

- 9.2.1.13 Protect functional values of all types of natural waterbodies (e.g., rivers, streams, wetlands, lakes, seasonal ponds); and
- 9.2.1.14 Sustain or enhance biodiversity (native plant and animal habitat) and support riparian ecosystems.

9.3 Scope

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

9.4 Greater Restrictions

- 9.4.1 All stormwater management and erosion and sediment control activities shall comply with all applicable requirements of the relevant Watershed Management Organization or Watershed District. In the case of conflict between provisions of this ordinance and other stormwater regulations, the strictest provisions shall apply to land development and/or land disturbing activities.
- 9.4.2 The provisions of this ordinance are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions the provisions of this ordinance shall prevail.

9.5 Severability

The provisions of this ordinance are severable, and if any provision, or application of any provision of this ordinance to any circumstance, is held invalid, the remainder of this ordinance and its application to other circumstances is not affected thereby.

9.6 Stormwater Management Permit

- 9.6.1 **Permit required.** Unless otherwise exempted by Section 9.8, an approved Stormwater Management Permit shall be required prior to any proposed land development activity that meets any of the criteria in 9.6.1.1 to 9.6.1.5, immediately below. All stormwater management permits shall include an Erosion and Sediment Control Plan (ESC Plan) or a Stormwater Pollution Prevention Plan (SWPPP).
 - 9.6.1.1 Any project that creates or fully reconstruct 6,000 square feet or more of impervious surface;
 - 9.6.1.2 All major subdivisions or minor subdivisions that are part of a common plan of development;
 - 9.6.1.3 Projects within the St. Croix Riverway that add 500 square feet or greater of additional impervious surface;
 - 9.6.1.4 Any project requiring a variance from the current local impervious surface zoning requirements for the property; or
 - 9.6.1.5 Any land development activity, regardless of size, that the Town determines is likely to cause an adverse impact to an environmentally sensitive area or other property.

9.7 Erosion and Sediment Control Plan

9.7.1 Plan Required. Unless otherwise exempted by this ordinance in Section 9.8, an Erosion and Sediment Control Plan shall be required as part of any Grading and Filling Permit or Building Permit which proposes any land disturbing activity that meets any of the criteria in 9.7.1.1. through 9.7.1.3. below.

9.7.1.1 Any project undertaking grading, filling, or other land alteration activities which involve movement of one hundred (100) cubic yards of earth or removal of vegetation on greater than ten thousand square feet (10,000 ft²) of land;

9.7.1.2 Any project with wetland impacts, grading within public waters, grading within buffers or within 40-feet of the bluff line;

9.7.1.3 A land disturbing activity, regardless of size, that the Town 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 ordinance.

9.7.2 Stormwater Volume Reduction Performance Standards

Any applicant for a Stormwater Management Permit as defined in Section 9.6.1 of this ordinance must meet all of the following performance standards:

9.7.2.1 New development volume control: For new, nonlinear developments on sites without restrictions, stormwater runoff volumes will be captured and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from all impervious surfaces on the site.

9.7.2.2 Redevelopment volume control: Nonlinear redevelopment projects on sites without restrictions that create or fully reconstruct impervious surfaces shall capture and retain on site 1.1 inches of runoff from the new and/or fully reconstructed impervious surfaces.

9.7.2.3 Linear development volume control: Linear projects on sites without restrictions that create new and/or fully reconstructed impervious surfaces, shall capture and retain the larger of the following:

9.7.2.3.1 0.55 inches of runoff from the new and fully reconstructed impervious surfaces on the site; or

9.7.2.3.2 1.1 inches of runoff from the net increase in impervious area on the site.

9.7.2.3.3 Mill and overlay, reclamation and other resurfacing activities are not considered fully reconstructed.

9.7.2.4 Flexible treatment options for sites with restrictions. 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:

- 9.7.2.4.1 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.
- 9.7.2.4.2 Volume reduction techniques considered shall include infiltration, reuse & rainwater harvesting, and canopy interception & evapotranspiration and/or additional techniques included in the MIDS calculator and the Minnesota Stormwater Manual.
- 9.7.2.4.3 Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.
- 9.7.2.4.4 Factors to be considered for each alternative will include:
 - 9.7.2.4.4.1 Karst geology
 - 9.7.2.4.4.2 Shallow bedrock
 - 9.7.2.4.4.3 High groundwater
 - 9.7.2.4.4.4 Hotspots or contaminated soils
 - 9.7.2.4.4.5 Drinking Water Source Management Areas or within 200 feet of drinking water well
 - 9.7.2.4.4.6 Zoning, setbacks or other land use requirements
 - 9.7.2.4.4.7 Excessive cost
 - 9.7.2.4.4.8 Poor soils (infiltration rates that are too low or too high, problematic urban soils)
- 9.7.2.4.5 **Alternative #1:** Applicant shall attempt to comply with the following conditions:
 - 9.7.2.4.5.1 Achieve at least 0.55” 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.
 - 9.7.2.4.5.2 Remove 75% of the annual 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.
 - 9.7.2.4.5.3 Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.
- 9.7.2.4.6 **Alternative #2:** Applicant shall attempt to comply with the following conditions:
 - 9.7.2.4.6.1 Achieve volume reduction to the maximum extent practicable.
 - 9.7.2.4.6.2 Remove 60% of the annual 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.

9.7.2.4.6.3 Options considered and presented shall examine the merits of relocating project elements to address, varying soil conditions and other constraints across the site.

9.7.2.4.7 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:

9.7.2.4.7.1 Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.

9.7.2.4.7.2 Locations within the same Department of Natural Resource (DNR) catchment area (Hydrologic Unit 08) as the original construction activity.

9.7.2.4.7.3 Locations within the next adjacent DNR catchment area upstream.

9.7.2.4.7.4 Locations anywhere within the community's jurisdiction. The MIDS Design Sequence Flowchart can be found in the Minnesota Stormwater Manual:

http://stormwater.pca.state.mn.us/index.php/Flexible_treatment_options

9.7.2.5 Stormwater Management Rate Control. For all new development, redevelopment and linear development sites the site design shall provide on-site treatment during construction and post-construction to ensure no increase in offsite peak discharge for the 1-year, 2-year, 24-hour storm event, the 10-year, 24-hour storm event, and the 100-year, 24-hour storm event based on Atlas 14 precipitation frequency events. For single family residential building lots not part of a common plan of development site rate control requirements do not apply.

9.7.2.6 Other Design Standards

9.7.2.6.1 Minnesota Stormwater Manual: All volume control for water quality and quantity and site design specifications shall conform to the current version of the Minnesota Stormwater Manual.

9.7.2.6.2 Site erosion and sediment control requirements: All erosion and sediment control requirements shall conform to the current requirements of NPDES/SDS Construction Stormwater General Permit.

9.7.2.6.3 Watershed District/WMO requirements: All stormwater management and erosion and sediment control activities shall comply with all applicable requirements of the Watershed Districts or Watershed Management Organizations in which the project is located. In case provisions in this ordinance and requirements of watershed district or watershed management organizations overlap or conflict, the strictest provisions shall apply to the activities.

9.8 Exemptions.

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

- 9.8.1** Emergency work necessary to protect life, limb, or property;
- 9.8.2** Routine agricultural activity such as tilling, planting, harvesting, and associated activities. Other agricultural activities are not exempt including activities such as construction of structures;
- 9.8.3** Silvicultural/forestry activity;
- 9.8.4** Building permits for new construction in an approved subdivision that meets the requirements of Section 9.6 Stormwater Management are exempt from Stormwater Management standards as long as the individual property does not exceed impervious surface percentage approved for the given parcel in that subdivision.

9.9 Permit Review Process

- 9.9.1 Pre-application meeting.** At the discretion of the Town, the Town shall facilitate a pre-application meeting with the applicant, Town staff (or their authorized representative), and staff of relevant partner agencies (e.g. WCD, MSCWMO, MDNR, etc.). The purposes of the meeting are to understand the general parameters of the proposed project and to convey the requirements of meeting the provisions of the ordinance.
- 9.9.2 Application completeness review.** The Town shall make a determination regarding the completeness of a permit application within ten (10) days of the receipt of the application and notify the Applicant in writing if the application is not complete, including the reasons the application was deemed incomplete.
- 9.9.3 Application review**
 - 9.9.3.1** The applicant shall not commence any construction activity subject to this ordinance until a permit has been issued by the Town.
 - 9.9.3.2** The Town shall review all information in the permit application including proposed stormwater practices, hydrologic models, and design methodologies and certify compliance with this ordinance.
 - 9.9.3.3** Grading applications may be reviewed, as deemed necessary or in accordance with other rules, by the Minnesota Department of Natural Resources, the Town Engineer, and either the Middle St. Croix Watershed Management Organization or the Valley Branch Watershed District.
- 9.9.4 Permit authorization**
 - 9.9.4.1** If the Town determines that the application meets the requirements of this ordinance, the Town may issue approval authorizing the project or activity. Approval will be in written form from the Town to the applicant.
 - 9.9.4.2** Approved plans and permits shall be valid for one year from the date of official approval.
- 9.9.5 Permit denial**
 - 9.9.5.1** If the Town determines that the application does not meet the requirements of this ordinance the application shall be denied. If the

application is denied, the applicant will be notified of the denial in writing including reasons for the denial.

9.9.5.2 Once an application is denied, a new application must be submitted for approval before any activity may begin. All land use and building permits may be suspended until the applicant has an authorized permit.

9.9.6 Plan information requirements. The minimum information requirements of the application shall be consistent with the requirements in the most recent version of the NPDES/SDS Construction Stormwater General Permit and Middle St. Croix WMO or Valley Branch Watershed District performance standards. The application information must also include permanent treatment information showing the proposed project meets the MSCWMO or VBWD performance goal.

9.9.7 Modification of permitted plans

9.9.7.1 If any of the following instances occur to a site with an approved ESC Plan or SWMP, the Applicant shall apply for an amendment to the associated permit(s), submitting all updated materials, reflecting the needed changes; the review of the amended materials shall use the same process as a new submittal, as designated in this ordinance:

9.9.7.2 Additions or modifications to existing BMPs to correct or improve effectiveness;

9.9.7.3 When there is a change in design, construction, operation, maintenance, or weather or seasonal conditions that has a significant effect on the discharge of pollutants to surface water or underground water;

9.9.7.4 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 receiving water to exceed water quality standard;

9.9.7.5 The ESC Plan or SWMP does not achieve the objectives of minimizing pollutants in stormwater discharges associated with the land alteration process.

9.10 Permit completion.

Before work under the permit is deemed complete, the Permittee shall submit as-built, a long term maintenance plan and information demonstrating that the constructed stormwater facilities conform to design specifications.

9.11 Inspections and Maintenance

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

9.11.2 Town Inspections. The Town 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.

9.11.3 Right of entry and inspection

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

- 9.11.3.1.1** Enter upon the permitted site for the purpose of obtaining information, examining records, and conducting investigations or surveys;
- 9.11.3.1.2** Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations;
- 9.11.3.1.3** Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit;
- 9.11.3.1.4** Inspect the stormwater pollution control measures;
- 9.11.3.1.5** Sample and monitor any items or activities pertaining to stormwater pollution control measures; and
- 9.11.3.1.6** Correct deficiencies in stormwater and erosion and sediment control measures.

9.11.4 Fees. Fees will be applied per Town Fee Schedule.

9.11.5 Private stormwater facilities – inspections and maintenance

9.11.5.1 Maintenance Plan Required: No private stormwater facilities may be approved unless a maintenance agreement is provided that defines who will conduct the maintenance, the type of maintenance necessary to ensure effective performance, and the maintenance intervals. All private stormwater facilities shall be inspected by the property owner and the Town, or its authorized representative, and maintained in proper condition by the owner consistent with the performance goals for which they were originally designed.

9.11.5.2 Facility Access: 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 Town.

9.11.5.3 Removal of Settled Materials: All settled materials including settled solids, shall be removed from ponds, sumps, grit chambers, and other devices as necessary and disposed of properly.

9.11.5.4 Inspections: All stormwater facilities within the Town shall be inspected by the Town during construction, during the first year of operation, and at least once every five years thereafter.

9.11.6 Public stormwater facilities - inspections and maintenance

9.11.6.1 Acceptance of Publicly Owned Facilities: 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 Town accepts ownership of the stormwater facilities.

- 9.11.6.2 Maintenance:** The Town shall perform maintenance of publicly owned stormwater facilities in accordance with their comprehensive stormwater management plan and other regulatory requirements.

9.12 Enforcement Actions

- 9.12.1 Notification of Failure of the Permit:** The Town shall notify the permit holder of the failure of the permit's measures.

9.12.1.1 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, forty-eight (48) hours after notification by the Town or seventy-two (72) hours after the failure of erosion and sediment control measures, whichever is less, the Town 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 Town has been unable to establish contact, the Town may proceed with corrective work. There are conditions when time is of the essence in controlling erosion. During such a condition the Town may take immediate action, and then notify the applicant as soon as possible.

9.12.1.2 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 forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the Town, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the Town, the permit holder does not repair the damage caused by the erosion, the Town may do the remedial work required. When restoration to wetlands and other resources are required, the applicant shall be required to work with the appropriate agencies to ensure that the work is done properly.

9.12.1.3 Erosion into Streets, Wetlands or Water Bodies - If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, 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.

9.12.1.4 Failure to do Corrective Work - When an applicant fails to conform to any provision of this policy within the time stipulated, the Town may take the following actions.

- 9.12.1.4.1 Stop Work Order -** Issue a stop work order, withhold the scheduling of inspections, and/or withhold the issuance of a Certificate of Occupancy.

9.12.1.4.2 Permit Revocation - Revoke any permit issued by the Town to the applicant for the site in question or any other of the applicant's sites within the Town's jurisdiction.

9.12.1.4.3 Correction by Town - Correct the deficiency or hire a contractor to correct the deficiency.

9.12.1.4.3.1 The applicant will be required to reimburse the Town for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within thirty (30) days after costs are incurred by the Town, payment will be made from the applicant's financial securities as described in Section 8 above.

9.12.1.4.3.2 If there is an insufficient financial amount in the applicant's financial securities as described in Section 9.23, the Town may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the Town, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of assessment.

9.12.2 Enforcement tools/stop work orders

9.12.2.1 The Town reserves the right to issue construction stop work orders when cooperation with inspections is withheld or when a violation has been identified that needs immediate attention to protect human health and/or the environment.

9.12.2.2 Construction stop work order: The Town 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 Town must follow before the construction project work can resume.

9.12.2.3 Other actions to ensure compliance: The Town can take any combination of the following actions in the event of a failure by applicant to meet the terms of this ordinance:

9.12.2.3.1 Withhold inspections or issuance of certificates or approvals.

9.12.2.3.2 Revoke any permit issued by the Town to the applicant.

9.12.2.3.3 Conduct remedial or corrective action on the development site or adjacent site affected by the failure.

9.12.2.3.4 Charge applicant for all costs associated with correcting the failure or remediating damage from the failure; if payment is not made within thirty days, payment will be made from the applicant's financial securities.

9.12.2.3.5 Bring other actions against the applicant to recover costs of remediation or meeting the terms of this ordinance.

9.13 Drainage

9.13.1 No land shall be developed or altered and no use shall be permitted that results in surface water runoff causing unreasonable flooding, erosion, or deposit of

materials on adjacent properties or water bodies. Such runoff shall be properly channeled into a storm drain, a natural watercourse or drainageway, a ponding area or other public facility.

- 9.13.2 Upon inspection of any site which has created drainage problems or could create a drainage problem with proposed new development, the owner of said site or contractor may be required to complete a grading plan and apply for a grading permit.
- 9.13.3 The owner or contractor of any natural drainage improvement or alteration may be required to obtain a grading permit.
- 9.13.4 On any slope in excess of thirteen percent (13%) (8:1) where the natural drainage pattern may be disturbed or altered, the owner or contractor may be required to obtain a grading permit.

9.14 Wetland and Water Preservation

- 9.14.1 **Floodplains.** Land alteration in floodplains shall also be in accordance with floodplain regulations.
- 9.14.2 **Public waters.** No public water area shall be filled, partially filled, dredged, altered by grading, mining or disturbed in any manner without first securing a permit from the Minnesota Department of Natural Resources, the United States Army Corps of Engineers and a grading permit from the zoning administrator.
- 9.14.3 **Wetlands.** The alteration of wetlands shall comply with the rules and regulations of federal, state, and local agencies.

9.15 Preservation of Natural Drainageways/ Waterways

- 9.15.1 Storm sewers may be used where it can be demonstrated that the use of the above-ground natural drainage system will inadequately dispose of runoff. Surface water drainage systems may be constructed to augment the natural drainage system.
- 9.15.2 The width of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- 9.15.3 No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- 9.15.4 The banks of the waterway shall be protected with permanent turf vegetation.
- 9.15.5 The banks of the waterway should not exceed five (5) feet horizontal to one (1) foot vertical.
- 9.15.6 The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks and waterway.
- 9.15.7 The bed of the waterway should be protected with turf or sod. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone or field stone (if random rip rap is used). The rip rap shall be no smaller than two (2) inches square nor larger than two (2) feet square.
- 9.15.8 The flow velocity of runoff waterways shall be controlled to a velocity that will not cause erosion of the waterway. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be

decreased via velocity control structures, then other materials may replace turf on the side walls. Rip rap would be allowed to prevent erosion at these points.

- 9.15.9** Flow velocity should be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structures.
- 9.15.10** To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- 9.15.11** Temporary pervious sediment traps could consist of a construction of hay bales with a low spillway embankment section of sand and gravel that permits slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction state of the development. Development of housing and other structures shall be restricted from the area on either side of the waterway necessary to channel a twenty five (25) year storm.
- 9.15.12** Permanent impervious sediment control structures consist of sediment basins (debris basins, desiltation basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.
- 9.15.13** The erosion and velocity control structures shall be maintained in a condition that will ensure continuous functioning according to the provisions of this Ordinance.
- 9.15.14** Sediment basins shall be maintained as the need occurs to insure continuous desilting action.
- 9.15.15** The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basin shall be landscaped.
- 9.15.16** Prior to the approval of a plat for development, the developer shall make provisions for continued maintenance on the erosion and sediment control system.

9.16 Other Stormwater Management Provisions

Steel culvert. Whenever any culvert is needed for drainage under a driveway, the culvert shall be a minimum of twenty-four (24) feet long and the material shall be sixteen (16) gauge steel or thicker. Plastic culverts will not be accepted.

9.17 Land Clearing

- 9.17.1 Required Permits.** Land clearing on an area of 20,000 square feet or more is permitted in all Districts, except the “C” Conservancy District, provided a Certificate of Compliance is issued. A permit is not required for clearing trees and other woody plants in an area less than 20,000 square feet, clearing activities associated with a construction project provided a building permit is issued and there is minimal amount of clearing, and subdivisions that have received final plat approval.
- 9.17.2 Other Requirements.** Land clearing must comply with all rules and regulations of federal, state, county, and local agencies.
- 9.17.3 Performance Standards.** Land clearing shall comply with the following:

- 9.17.3.1 There shall be no removal of trees located on slopes greater than 25%, or in wooded floodplains, wooded wetlands, and stream corridors. Trees and woodlands within the Shoreland Overlay District and the St. Croix River District are subject to the requirements as stated in Chapter Six, Shoreland Management Regulations and Chapter Five, Lower St. Croix River Bluffland and Shoreland Management Regulations in addition to the regulations of this Chapter.
- 9.17.3.2 Construction fences or barricades may be required to be placed at the perimeter of the area to be cleared.
- 9.17.3.3 Erosion and siltation measures shall be coordinated with the different stages of clearing. Appropriate control measures shall be installed prior to land clearing when necessary to control erosion.
- 9.17.3.4 Land shall be cleared in increments of a workable size such that erosion and siltation controls can be provided as the clearing progresses. The smallest practical area of land shall be exposed at any one period of time.
- 9.17.4 **Bond.** The Zoning Administrator may require the applicant to post a bond or other financial guarantee to ensure compliance with the Certificate of Compliance.

9.18 Definitions.

- Words or phrases used in this ordinance shall have the meanings as defined by Appendix B of the Minnesota Construction Stormwater Permit No: MN R100001 (Construction Permit). If not defined in the Construction Permit, then words or phrases shall be interpreted to have the meaning they have in common usage. Words or phrases shall be interpreted so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must”, “shall”, and “will” are mandatory and not permissive.
- 9.18.1 **Applicant.** The owner of land submitting an application under the provisions of this ordinance for a Stormwater Management Permit (SWMP) and/or Erosion and Sediment Control Plan (ESC Plan) to be issued by the community.
 - 9.18.2 **Best Management Practices (BMPs).** The most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.
 - 9.18.3 **Better Site Design.** The control and management of stormwater quantity and quality through the application of Better Site Design Techniques as outlined in the current version of the Minnesota Stormwater Manual. Better Site Design includes: preservation of natural areas; site reforestation; stream and shoreland buffers; open space design; disconnection of impervious cover; rooftop disconnection; grass channels; stormwater landscaping; compost and amended soils; impervious surface reduction; and trout stream protection.

- 9.18.4 Common Plan of Development or Sale.** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
- 9.18.5 Construction Activity.** Includes construction activity as defined in 40 CFR pt. 122.26(b)(14)(x) and small construction activity as defined in 40 CFR pt. 122.26(b)(15) and construction activity as defined by Minn. R. 709.0080, subp. 4. This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling, and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more. Construction activity does not include a disturbance to the land of less than five (5) acres for the purpose of routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
- 9.18.6 Development, New.** Any development that results in the conversion of land that is currently prairie, agriculture, forest, or meadow and has less than 15% impervious surface. Land that was previously developed, but now razed and vacant, will not be considered new development.
- 9.18.7 Erosion and Sediment Control Plan (ESC Plan).** A plan for projects disturbing less than one acre that is in compliance with the minimum requirements of the MSCWMO and VBWD. The plan identifies erosion prevention and sediment control practices, location and timelines for installation. The plan also includes responsible parties and timelines for inspection and maintenance.
- 9.18.8 Erosion Prevention.** Measures employed to prevent erosion. Examples include but not limited to: soil stabilization practices, limited grading, mulch, temporary erosion protection or permanent cover, and construction phasing.
- 9.18.9 Fully Reconstructed Impervious Surface.** Areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and pavement rehabilitation projects that do not alter underlying soil material beneath the structure, pavement, or activity are not considered fully reconstructed impervious surfaces. Reusing the entire existing building foundation and re-roofing of an existing building are not considered fully reconstructed.
- 9.18.10 Impervious Surface.** A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

- 9.18.11 Land Disturbance.** Any activity that result in a change or alteration in the existing ground cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, stockpiling, excavation, and borrow pits. Routine vegetation management, and mill and overlay/resurfacing activities that do not alter the soil material beneath the pavement base, are not considered land disturbance. In addition, other maintenance activities such as catch basin and pipe repair/replacement, lighting, and pedestrian ramp improvements shall not be considered land disturbance for the purposes of determining permanent stormwater management requirements.
- 9.18.12 Linear Project.** Construction or reconstruction of roads, trails, sidewalks, and rail lines that are not part of a common plan of development or sale. Mill, overlay and other resurfacing projects are not considered to be reconstruction.
- 9.18.13 Major Subdivision.** All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of an existing street.
- 9.18.14 Minor Subdivision.** Any subdivision containing three (3) or less lots fronting on an existing street, not part of a common plan of development nor involving any new street or road or the extension of municipal facilities.
- 9.18.15 National Pollutant Discharge Elimination System (NPDES).** 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.
- 9.18.16 Owner.** The person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease, easement, or mineral rights license holder, the party or individual identified as the lease, easement or mineral rights license holder; or the contracting government agency responsible for the construction activity.
- 9.18.17 Permanent Cover.** Surface types that will prevent soil failure under erosive conditions. Examples include: gravel, asphalt, concrete, rip rap, roof tops, perennial cover, or other landscaped material that will permanently arrest soil erosion. A uniform perennial vegetative cover (e.g., evenly distributed, without large bare areas) with a density of 70% 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. Permanent cover does not include the practices listed under temporary erosion protection.
- 9.18.18 Permittee.** A person or persons, firm, or governmental agency or other entity that signs the application submitted to the Township and is responsible for compliance with the terms and conditions of the permit.
- 9.18.19 Predevelopment State.** The rate and volume of stormwater is unchanged. The calculation of predevelopment is based on native soils and vegetation.
- 9.18.20 Public Waters.** All water basins and watercourses that are described in Minn. Stat. § 103G.005 subd. 15.

- 9.18.21 Redevelopment.** Any development that is not considered new development.
- 9.18.22 Retain.** Manage stormwater on site using a low-impact development approach so that the rate and volume of predevelopment stormwater reaching receiving waters is unchanged.
- 9.18.23 St. Croix Riverway.** All lands and public waters within the riverway boundary subject to the standards and criteria for the Lower Saint Croix National Scenic Riverway in Minnesota.
- 9.18.24 Saturated Soil.** The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.
- 9.18.25 Sediment Control.** 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, bio rolls, rock logs, compost logs, storm drain inlet protection, and temporary or permanent sedimentation basins.
- 9.18.26 Stormwater Facility.** A stationary and permanent BMP that is designed, constructed and operated to prevent or reduce the discharge of pollutants in stormwater.
- 9.18.27 Small Construction Activity.** As defined in 40 CFR part 122.26(b)(15). Small construction activities include clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
- 9.18.28 Stabilized.** Exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Grass, agricultural crop or other seeding alone is not stabilization. Mulch materials must achieve approximately 90 percent ground coverage (typically 2 ton/acre).
- 9.18.29 Stormwater.** As defined under Minn. R. 7077.0105, subp. 41(b), and includes precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage.
- 9.18.30 Stormwater Pollution Prevention Plan (SWPPP).** A plan for stormwater discharge that includes erosion prevention BMPs, sediment control BMPs and permanent stormwater management systems that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.
- 9.18.31 Surface Water(s).** All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private, except that surface waters do not include treatment basins or ponds that were constructed from upland.
- 9.18.32 Temporary Erosion Protection.** Methods employed to prevent erosion during construction activities. Examples of temporary erosion protection include;

straw, wood fiber blanket, wood chips, vegetation, mulch and rolled erosion control products.

9.18.33 Underground Waters (Groundwater). Water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term groundwater shall be synonymous with underground water.

9.18.34 Wetland(s). As defined in Minn. R. 7050.0130, subp. F and includes those areas that are inundated or saturated by surface water or ground water 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. Wetlands must have the following attributes: A predominance of hydric soils. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition. Under normal circumstances support a prevalence of such vegetation.

9.19 Illicit Discharge and Connection Stormwater Ordinance

9.19.1 Purpose. The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of West Lakeland Township through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

9.19.1.1 To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;

9.19.1.2 To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system;

9.19.1.3 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

9.19.2 Applicability. This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency

9.19.3 Responsibility for Administration. The Town Board of West Lakeland Township shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Chairman of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the township.

9.19.4 Ultimate Responsibility. The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

9.20 Prohibition of Illegal Discharges

9.20.1 No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

9.20.1.1 The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing Pollutants.

9.20.1.2 Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health.

9.20.1.3 Dye testing is an allowable discharge, but requires a verbal notification to the West Lakeland Board or authorized enforcement agency prior to the time of the test.

9.20.1.4 The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

9.21 Prohibition of Illicit Connections

9.21.1 The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

9.21.2 This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

9.21.3 A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

9.22 Suspension of MS4 Access

9.22.1 Illicit Discharges by an Individual

- 9.22.1.1 Suspension due to Illicit Discharges in Emergency Situations.** The West Lakeland Township Board or authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.
- 9.22.1.2 Suspension due to the Detection of Illicit Discharge.** Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
- 9.22.1.3** A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.
- 9.22.2 Industrial or Construction Activity Discharges.** Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the West Lakeland Township Board or authorized enforcement agency prior to the allowing of discharges to the MS4.
- 9.22.3 Monitoring of Discharges**
- 9.22.3.1 Applicability.** This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- 9.22.3.2 Access to Facilities**
- 9.22.3.2.1** The West Lakeland Township Board or authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- 9.22.3.2.2** Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

- 9.22.3.2.3** The West Lakeland Township Board or authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- 9.22.3.2.4** The West Lakeland Township Board or authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- 9.22.3.2.5** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the West Lakeland Board or authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- 9.22.3.2.6** Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility are a violation of the stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- 9.22.3.2.7** If the West Lakeland Board or authorized enforcement agency has 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 authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

9.22.4 Requirement To Prevent, Control, And Reduce Stormwater Pollutants By The Use Of Best Management Practices

West Lakeland Township Board or authorized enforcement agency will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs.

Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

9.22.5 Watercourse Protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

9.22.6 Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the West Lakeland Township Board or authorized enforcement agency within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

9.23 Financial Securities

9.23.1 Amount. The Town shall require a Financial Security 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 established in a set financial security schedule determined by the Town.

9.23.2 Release. The Financial Security shall not be released until all permitted and remedial work is completed.

9.23.3 Use by Town. The Financial Security may be used by the Town to complete work not completed by the Applicant.

9.23.4 Form of security. The form of the Financial Security shall be one or a combination of the following to be determined by the Town:

- 9.23.4.1 Cash deposit** - The first \$5,000 of the Financial Security for erosion and sediment control shall be by cash deposit to the Town. The cash will be held by Town in a separate account.
- 9.23.4.2 Security deposit** - Deposit, either with the Town, a responsible escrow agent, or trust company, at the option of the Town, either:

 - 9.23.4.2.1** An irrevocable letter of credit, negotiable bonds of the kind approved for securing deposits of public money, or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges funds are on deposit and guaranteed for payment.
 - 9.23.4.2.2** Cash in U.S. currency.
 - 9.23.4.2.3** Other forms and securities (e.g., disbursing agreement) as approved by the Town.
- 9.23.5 Town indemnity.** This Financial Security shall hold the Town free and harmless from all suits or claims for damages resulting from the negligent grading, removal, placement or storage of rock, sand, gravel, soil or other like material within the Town
- 9.23.6 Maintaining the financial security.** If at any time during the course of the work the balance of the Financial Security falls below 50% of the total required deposit, 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 Town that the amount has fallen below 50% of the required amount the Town may:

 - 9.23.6.1 Withhold inspections** - Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 - 9.23.6.2 Revoke permits** - Revoke any permit issued by the Town to the Applicant for the site in question or any other of the Applicant's sites within the Town's jurisdiction.
- 9.23.7 Action against the financial security.** The Town may access the Financial Security for remediation actions if any of the conditions listed below exist. The Town shall use the Financial Security to pay for remedial work undertaken by the Town, or a private contractor under contract with the Town, or to reimburse the Town for all costs incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.

 - 9.23.7.1 Abandonment** - The Applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
 - 9.23.7.2 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 Town.
 - 9.23.7.3 Failure to perform** - The techniques utilized under the SWPPP fail within one year of installation.
- 9.23.8 Proportional reduction of the financial security.** When more than one-third of the applicant's maximum exposed soil area achieves final stabilization, the Town can reduce the total required amount of the financial security by one-

third. When more than two-thirds of the applicant's maximum exposed soil area achieves final stabilization, the Town can reduce the total required amount of the financial security to two-thirds of the initial amount. This reduction in financial security will be determined by the Town.

9.23.9 Returning the financial security. The security deposited with the Town for faithful performance of the SWPPP or the ESC Plan and any related remedial work shall be released one full year after the completion of the installation of all stormwater pollution control measures, including vegetation establishment, as shown on the SWPPP or ESC Plan.

9.23.10 Emergency action. If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the Town, the Town may take emergency preventative action. The Town shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the Town for emergency action may be recovered from the applicant's financial security.

9.24 Enforcement

9.24.1 Notice of Violation. Whenever the West Lakeland Township Board or authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

9.24.1.1 The performance of monitoring, analyses, and reporting;

9.24.1.2 The elimination of illicit connections or discharges;

9.24.1.3 That violating discharges, practices, or operations shall cease and desist;

9.24.1.4 The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

9.24.1.5 Payment of a fine to cover administrative and remediation costs;

9.24.1.6 The implementation of source control or treatment BMPs.

9.24.2 If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the West Lakeland Board or a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

9.24.3 Appeal of Notice Of Violation. Any person receiving a Notice of Violation may appeal the determination of the West Lakeland Board or authorized enforcement agency. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

9.24.4 Enforcement Measures After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within thirty (30) days of the decision of the municipal

authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

9.24.5 Cost Of Abatement Of The Violation

9.24.5.1 Within sixty (60) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within thirty (30) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

9.24.5.2 Any person violating any of the provisions of this article shall become liable to the township by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of six (6) percent shall be assessed on the balance beginning thirty (30) days after receipt of notice of assessment for the cost of abatement.

9.24.6 Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the West Lakeland Board or authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

9.24.7 Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the West Lakeland Board or authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

9.24.8 Violations Deemed A Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

9.24.9 Criminal Prosecution. Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty for a misdemeanor under state law.

9.24.10 The West Lakeland Board or authorized enforcement agency may recover all attorney fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

9.25 Remedies Not Exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the West Lakeland Board or authorized enforcement agency to seek cumulative remedies.