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**The Board of Supervisors of the Town of Marion Ordains:**

**SECTION 1. STATUTORY AUTHORIZATION AND PURPOSE.**

**Statutory Authorization**

**Statutory authority.** Minn. Stat. Ch. 462 authorizes the Town of Marion to adopt land use regulations.

**Most restrictive law applies.** In the event of any conflict between provisions of this chapter or other regulations adopted by the Town of Marion, County of Olmsted, the State of Minnesota, or Federal authorities, watershed district or watershed management organization, the more restrictive standard shall prevail.

**Purpose/Scope/Applicability**

**Purpose.** The purpose of this chapter is established to promote, preserve and enhance natural resources and human health and safety within the Town of Marion by protecting them from the adverse impacts of uncontrolled stormwater runoff during and after construction projects.

**Scope.** This chapter sets requirements for stormwater conveyance systems and management practices within the Town of Marion. This chapter also regulates land disturbing or development activities that would have a negative and potentially irreversible impact on water quality.

**Applicability.** The requirements of this chapter apply to all construction activity as defined below.

**SECTION 2. DEFINITIONS.**

**"Active karst"** means a terrain having distinctive landforms and hydrology created primarily from the dissolution of soluble rocks within 50 feet of the land surface.

**"Best Management Practices (BMPs)"** means 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, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

**"Common Plan of Development or Sale"** means one proposed plan for 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.

**"Construction Activity"** means activities including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre, including the disturbance of less than one 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 acre. This includes a disturbance to the land that results in a change in the topography, existing soil cover, both vegetative and nonvegetative, or the existing soil topography that may result in accelerated stormwater runoff that may lead to soil erosion and movement of sediment. Construction activity does not include a disturbance to the land of less than five acres for the purpose of routine maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Routine maintenance does not include activities such as repairs, replacement and other types of non-routine maintenance. Pavement rehabilitation that does not disturb the underlying soils (e.g., mill and overlay projects) is not construction activity.

**"Dewatering"** means the removal of surface or ground water to dry and/or solidify a construction site to enable construction activity. Dewatering may require a Minnesota Department of Natural Resources (DNR) water appropriation permit and, if dewatering water is contaminated, discharge of such water may require an individual MPCA NPDES/SDS permit.

**"DNR Catchment Area"** means the Hydrologic Unit 08 areas delineated and digitized by the Minnesota DNR. The catchment areas are available for download at the Minnesota DNR Geospatial Commons website. DNR catchment areas may be locally corrected, in which case the local corrections may be used.

**"Energy Dissipation"** means methods employed at pipe outlets to prevent erosion caused by the rapid discharge of water scouring soils.

**"Erosion Prevention"** means measures employed to prevent erosion such as soil stabilization practices, permanent cover or construction phasing.

**"Fully reconstructed"** means areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and other pavement rehabilitation projects that do not expose the underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed. Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed.

**"General permit"** means a permit issued under Minn. R. 7001.0210 to a category of owners/operators whose operations, emissions, activities, discharges, or facilities are the same or substantially similar.

**"Groundwater"** means the 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.

**"Infeasible"** means not technologically possible or not economically practicable and achievable in light of the best industry practices.

**"Initiated immediately"** means taking an action to commence soil stabilization as soon as practicable, but no later than the end of the workday, following the day when the land-disturbing activities temporarily or permanently ceased. If construction work on the site will be cease for 14 or more additional calendar days, or seven (7) calendar days on a project that is within one mile (aerial radius measurement) of, and flows to, one or more of the following: "impaired waters", "other special waters", "prohibited waters", and/or "restricted waters" as defined), stabilization can be immediately initiated by:

- a) Prepping the soil for vegetative or non-vegetative stabilization; or
- b) Applying mulch or other non-vegetative product to the exposed soil area; or
- c) Seeding or planting the exposed area; or
- d) Starting any of the activities in a - c on a portion of the area to be stabilized, but not on the entire area; or
- e) Finalizing arrangements to have stabilization product fully installed in compliance with the applicable deadline for completing stabilization

**"Impaired Waters"** means a water with an USEPA approved TMDL for any of the impairments listed in this item, and waters identified as impaired under section 303 (d) of the federal Clean Water Act for phosphorus (nutrient eutrophication biological indicators), turbidity, TSS, dissolved oxygen or aquatic biota (fish bioassessment, aquatic plant bioassessment and aquatic macroinvertebrate bioassessment).

**"Impervious Surface"** means 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, driveways, parking lots, and concrete, asphalt, or gravel roads. Bridges over surface waters are considered impervious surfaces.

**"Linear project"** means construction of new or fully reconstructed roads, trails, sidewalks, or rail lines that are not part of a common plan of development or sale. For example, roads being constructed concurrently with a new residential development are not considered linear projects because they are part of a common plan of development or sale.

**"MPCA NPDES Construction Permit"** The current Minnesota Pollution Control Agency General Permit to Discharge Stormwater Associated with Construction Activity Under the National Pollution Discharge Elimination System State Disposal System Program (NPDES/SDS).

**"Municipal separate storm sewer system" or "MS4"** means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

- a) owned or operated by a state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district or similar entity, or an Indian tribe or an authorized Indian

tribe organization, or a designated and approved management Agency under section 208 of the federal Clean Water Act, United States Code, title 33, section 1288, that discharges into waters of the state;

b) designed or used for collecting or conveying stormwater;

c) that is not a combined sewer; and

d) that is not part of a publicly owned treatment works as defined in 40 CFR 122.2.

Municipal separate storm sewer systems do not include separate storm sewers in very discrete areas, such as individual buildings.

**"National Pollutant Discharge Elimination System (NPDES)"** means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act, as amended (33 U.S.C. 1251 et seq. Section 1342 and 40 CFR parts 122, 123, 124 and 450).

**"Natural Buffer"** means an area of undisturbed cover surrounding surface waters within which construction activities are restricted. Natural buffer includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.

**"Normal Wetted Perimeter"** means the area of a conveyance, such as a ditch or channel, that is in contact with water during flow events that are expected to occur from a two-year, 24-hour storm event.

**"Other Special Waters"** means Trout Lakes identified in Minn. R. 6264.0050, subp. 2. and Trout Streams listed in Minn. R. 6264.0050, subp. 4.

**"Owner/Operator"** means any person, firm, governmental agency, or other entity who is named on a submitted application and who is responsible for compliance with the terms and conditions of this ordinance.

**"Permanent Cover"** means surface types that will prevent soil failure under erosive conditions. Examples include: gravel, concrete, perennial cover, or other landscaped material that will permanently arrest soil erosion. Permanent cover consists of a uniform perennial vegetative cover (i.e., evenly distributed, without larger bare areas) with a density of 70 percent of the native background vegetative cover or equivalent permanent stabilization measures. Permanent cover does not include temporary BMPs such as wood fiber blanket, mulch, and rolled erosion control products.

**"Project(s)"** means all construction activity planned and/or conducted under this ordinance. The project occurs on the site or sites as described in the site plan.

**"Public Waters"** means all water basins and watercourses described in Minn. Stat. Sect. 103G.005 subp. 15.

**"Prohibited Waters"** means Boundary Waters Canoe Area Wilderness; Voyageurs National Park; Kettle River from the site of the former dam at Sandstone to its confluence with the Saint Croix River; Rum River from Ogechie Lake spillway to the northernmost confluence with Lake Onamia; Lake Superior North of latitude 47 degrees, 57 minutes, 13 seconds; Lake Superior East of Hat Point; Lake Superior South of the Minnesota-Ontario boundary; Lake Superior West of the Minnesota-Michigan

boundary; Boot Lake, Anoka County; Kettle River in sections 15, 22, 23, T 41 N, R 20, Pine County; Pennington Bog, Beltrami County; Purvis Lake-Ober Foundation, Saint Louis County; waters within the borders of Itasca Wilderness Sanctuary, Clearwater County; Iron Springs Bog, Clearwater County; Wolsfeld Woods, Hennepin County; Green Water Lake, Becker County; Blackdog Preserve, Dakota County; Prairie Bush Clover, Jackson County; Black Lake Bog, Pine County; Pembina Trail Preserve, Polk County; and Falls Creek, Washington County.

**"Restricted Waters"** means Lake Superior, except those portions identified as prohibited special waters in Section 7.2.1. above; the Mississippi River in those portions from Lake Itasca to the southerly boundary of Morrison County that are included in the Mississippi Headwaters Board comprehensive plan dated February 12, 1981; Saint Croix River, entire length; Cannon River from northern city limits of Faribault to its confluence with the Mississippi River; North Fork of the Crow River from Lake Koronis outlet to the Meeker-Wright county line; Kettle River from north Pine County line to the site of the former dam at Sandstone; Minnesota River from Lac que Parle dam to Redwood County State Aid Highway 11; Mississippi River from County State Aid Highway 7 bridge in Saint Cloud to northwestern city limits of Anoka; Rum River from State Highway 27 bridge in Onamia to Madison and Rice streets in Anoka; the Lake Trout Lakes identified in Minn. R. 7050.0335 including those inside the boundaries of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park; and Calcareous Fens listed in Minn. R 7050.0335, subp. 1.

**"Sediment Control"** means methods employed to prevent suspended sediment in stormwater from leaving the site (e.g. silt fences, compost logs and storm drain inlet protection).

**"Stabilize", "Stabilized", "Stabilization"** means the 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 seeding, agricultural crop seeding or other seeding alone is not stabilization. Mulch materials must achieve approximately 90 percent ground coverage (typically 2 ton/acre).

**"Stormwater"** means precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage.

**"Structural Stormwater BMP"** means a stationary and permanent BMP that is designed, constructed, and operated to prevent or reduce the discharge of pollutants in stormwater.

**"Surface Water 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, except that surface waters do not include stormwater treatment systems.

**"Wetlands"** means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and 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) a predominance of hydric soils; and
- b) 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; and
- c) under normal circumstances support a prevalence of such vegetation.

### **SECTION 3. (NPDES/SDS) PERMIT REQUIRED; OTHER PERMITS**

- a. **Must obtain a state permit.** An Owner/Operator of construction activity must apply for coverage under the Minnesota Pollution Control Agency's (MPCA's) Construction Stormwater Permit (Permit No: MNR100001). A Town of Marion Stormwater Permit will not be issued until coverage under the MPCA's Construction Stormwater Permit has been obtained by the applicant.
- b. **Other required permits.** For certain construction activity, various other permits may also be required. The Owner/Operator of construction activity is responsible for obtaining any other required permits from the Town Representative of Marion Township and other State, Federal, or local governmental agencies having any authority over the work to be performed. Typically, such agencies may include, but are not limited to, the U.S. Army Corps of Engineers, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Minnesota Department of Transportation, and the State Historical Preservation Office.
- c. **Stormwater Pollution Prevention Plan (SWPPP).** A SWPPP shall be submitted with the Land Disturbance Permit Application. The SWPPP shall be consistent with the requirements outlined in this document, Town Ordinances, and State and Federal regulations.
- d. **SWPPP Plan Content.** The SWPPP shall be completed prior to submitting a Land Disturbance Permit Application and prior to conducting any land disturbing activities. SWPPP plan content must include at a minimum the items required and identified in the MPCA NPDES Construction Permit. This includes information to meet the requirements of the Construction Site Stormwater Runoff Control and Post-Construction Stormwater Management sections of this document, where applicable.
- e. **Construction Site Stormwater Runoff Control Requirements.** The construction site stormwater runoff control requirements shall apply to all land disturbance and construction activity that disturbs land of equal to or greater than 1 acre, or includes the disturbance of less than 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 1 acre or as deemed necessary by the Marion Town Representative to safeguard persons, protect property, and prevent degradation to the environment in the Town of Marion.

Site plans and project documentation must incorporate erosion and sediment controls and pollution controls as required and defined in the MPCA NPDES Construction Permit, including those identified in the MPCA NPDES Construction Permit for discharges to special and impaired waters, when applicable. These requirements are briefly described below.

i. Temporary Sediment Basins

Temporary sediment basin(s) are required to treat runoff where deemed necessary by the MPCA NPDES Construction Permit and where deemed necessary by the Town of Rice Lake to safeguard persons, protect property, and prevent degradation to the environment.

ii. Erosion Prevention Practices

Erosion Prevention Practices (BMPs) must be planned for, implemented, and maintained to prevent soil particle exposure and detachment in order to minimize site erosion.

iii. Sediment Control Practices

Sediment Control Practices (BMPs) must be planned for, implemented, and maintained to prevent eroded sediment from leaving the site and to minimize sediment and other pollutants from entering surface waters, including curb and gutter systems and storm sewer systems.

iv. Dewatering Activities

Dewatering or basin draining activities to remove surface or ground water to dry and/or solidify a construction site to enable construction activity must incorporate appropriate BMPs to discharge in a manner that does not cause nuisance conditions. Dewatering may require a Minnesota Department of Natural Resources (DNR) water appropriation permit and, if dewatering water is contaminated, discharge of such water may require an individual MPCA NPDES/SDS permit.

v. Inspections and Maintenance

Construction sites must be inspected on a regular basis to ensure the integrity and effectiveness of all erosion prevention BMPs, sediment control BMPs, and pollution prevention management measures. All non-functional BMPs must be repaired, replaced or supplemented with functional BMPs.

vi. Pollution Prevention Management Measures

Construction sites must incorporate pollution prevention management measures to reduce the probability of spills, leaks and discharges of pollutants.

vii. Final Stabilization

Upon the completion of construction activity final stabilization must be completed to include perennial vegetative cover on all exposed soils, or other equivalent means necessary to prevent soil failure under erosive conditions.

## **SECTION 4. CONSTRUCTION SITE STORMWATER RUNOFF CONTROL**

### **a. Site Plan Review**

- i. No construction activity may be conducted within the jurisdiction of Marion Township unless a Construction Stormwater Permit has been issued with respect to that construction activity and the Permittee has paid all the Town Representative's fees and expenses incurred in issuing said Permit and monitoring the construction activity as required by this Ordinance.
- ii. The Owner/Operator of construction activity shall submit a copy of the site plan as part of the Construction Stormwater Permit for review and confirmation that the requirements of this ordinance have been met.
- iii. If the Construction Stormwater Permit is denied, and the Owner/Operator would like to proceed with the project, the Owner must revise the Construction Stormwater Permit application including the site plan, and resubmit.
- iv. Once a Construction Stormwater Permit been issued/approved, the site plan becomes an enforceable document and the Owner/Operator must comply with all requirements identified in the site plan. The Owner/Operator is also responsible for keeping the stormwater runoff control requirements identified in the site plan up-to-date.

### **b. Site Plan Requirements**

- i. The site plan must include the following project information.
  - 1) Project name
  - 2) Location of the project
  - 3) Total acreage to be disturbed
  - 4) Names of the Owners/Operators responsible for the proposed construction activity
- ii. The site plan must include the location, type, and narrative of the following best management practices (BMPs) consistent with standards identified in Part 4.c. (Best Management Practices (BMPs) Requirements)
  - 1) Down gradient sediment controls;
  - 2) Soil stabilization (temporary and permanent);
  - 3) Vehicle tracking;
  - 4) Inspection and maintenance schedules; and
  - 5) Other BMPs as applicable:
    - a) Areas that are not to be disturbed;
    - b) Phasing and stabilization BMPs for steep slopes;
    - c) Temporary or permanent ditches or swales being used as sediment containment systems;

- d) Pipe outlet energy dissipation
- e) Buffer Zones including but not limited to:
  - i. A minimum of a 50-foot natural buffer;
  - ii. A minimum of a 100-foot buffer zone from “other special waters”, “prohibited waters”, and “restricted waters” as defined;
- f) Inlet protection BMPs;
- g) Stockpile BMPs;
- h) Dewatering and basin draining;
- i) Temporary Sedimentation Basins consistent with standards identified in Part 4.d. (Design Criteria for Temporary Sediment Basins);
- j) Pollution Prevention Management BMPs;
- k) Permanent Stormwater Management BMPs;

**c. Best Management Practices (BMPs) Requirements**

- i. Erosion Prevention Practices
  - 1) All areas not to be disturbed must be delineated before work begins;
  - 2) All steep slopes must be identified in the site plan and disturbance of those steep slopes should be minimized. If steep slopes must be disturbed, techniques such as phasing and stabilization practices designed for steep slopes (e.g., slope draining and terracing) must be implemented;
  - 3) All exposed soil areas, including stockpiles must be stabilized:
    - a) Stabilization must be initiated immediately to limit soil erosion when construction activity has permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days (or seven (7) calendar days on a project that is within one mile (aerial radius measurement) of, and flows to, one or more of the following: “impaired waters”, “other special waters”, “prohibited waters”, and/or “restricted waters” as defined);
    - b) Stabilization must be completed no later than 14 calendar days after the construction activity has ceased (or seven (7) calendar days on a project that is within one mile (aerial radius measurement) of, and flows to, one or more of the following: “impaired waters”, “other special waters”, “prohibited waters”, and/or “restricted waters” as defined);
    - c) Stabilization is not required on constructed base components of roads, parking lots and similar surfaces;
    - d) Stabilization is not required on temporary stockpiles without significant silt, clay or organic components (e.g., clean aggregate

stockpiles, demolition concrete stockpiles, sand stockpiles) but permittees must provide sediment controls at the base of the stockpile.

- 4) All exposed soil areas within 200 feet of the water's edge, and that drain to Public Waters that the Minnesota DNR has promulgated "work in water restrictions" during specified fish spawning time frames, must be stabilized within 24 hours during the restriction period;
- 5) The normal wetted perimeter of the last 200 linear feet of temporary or permanent drainage ditches or swales that drain water from the site must be stabilized within 24 hours after connecting to a surface water or property edge;
- 6) Stabilization of remaining portions of temporary or permanent ditches or swales must be completed within 14 calendar days after connecting to a surface water or property edge and after construction in that portion of the ditch temporarily or permanently ceases;
- 7) Temporary or permanent ditches or swales being used as a sediment containment system during construction (with properly designed rock-ditch checks, bio rolls, silt dikes, etc.) do not need to be stabilized. Stabilization of these areas must be completed within 24 hours after their use as a sediment containment system ceases;
- 8) Mulch, hydromulch, tackifier, polyacrylamide or similar erosion prevention practices must not be used within any portion of the normal wetted perimeter of a temporary or permanent drainage ditch or swale section with a continuous slope of greater than 2 percent;
- 9) Temporary or permanent energy dissipation must be provided at all pipe outlets within 24 hours after connection to a surface water or permanent stormwater treatment system; and
- 10) No more land can be disturbed (i.e., phasing) than can be effectively inspected and maintained in accordance with inspection and maintenance requirements. Street sweeping must be used if vehicle tracking BMPs are not adequate to prevent sediment tracking onto the street;

ii. Sediment Control Practices

- 1) Sediment control BMPs must be established on all downgradient perimeters of the site and downgradient areas of the site that drain to any surface water, including curb and gutter systems;
- 2) Sediment control practices must be located upgradient of any buffer zones;
- 3) Sediment control practices must be installed before any upgradient land-disturbing activities begin and must be kept in place until permanent cover is established;

- 4) If downgradient sediment controls are overloaded, based on frequent failure or excessive maintenance requirements, additional upgradient sediment control practices or redundant BMPs must be installed to eliminate the overloading. The site plan must be amended to identify these additional practices;
- 5) Temporary or permanent drainage ditches and sediment basins designed as part of a sediment containment system (e.g., ditches with rock-check dams) require sediment control practices only as appropriate for site conditions;
- 6) A floating silt curtain placed in the water is not a sediment control BMP to satisfy perimeter control in this part except when working on a shoreline or below the waterline. When applicable, after the short term construction activity (e.g., installation of rip rap along the shoreline) in that area is complete, upland perimeter control practices must immediately be installed if exposed soils still drain to a surface water;
- 7) All sediment control practices adjusted or removed to accommodate short-term activities such as clearing or grubbing, or passage of vehicles, must be re-installed immediately after the short-term activity is completed. All sediment control practices must be re-installed before the next precipitation event even if the short-term activity is not complete;
- 8) All storm drain inlets must be protected using appropriate BMPs during construction until permanent cover has been established on all areas with potential for discharging to the inlet;
- 9) Inlet protection for a particular inlet may be removed if a specific safety concern (e.g. street flooding/freezing) is identified. The need for removal must be documented in the site plan;
- 10) Silt fence or other effective sediment controls must be provided at the base of stockpiles on the downgradient perimeter;
- 11) All stockpiles must be located outside of natural buffers or surface waters, including stormwater conveyances such as curb and gutter systems unless there is a bypass in place for the stormwater;
- 12) Vehicle tracking BMPs must be located to minimize the track out of sediment from the construction site or onto paved roads within the site;
- 13) Street sweeping must be used if vehicle tracking BMPs are not adequate to prevent sediment tracking onto the street;
- 14) Temporary sediment basins must be installed consistent with standards identified in Part 4.d. (Design Criteria for Temporary Sediment Basins);
- 15) In any areas of the site where final vegetative stabilization will occur, vehicle and equipment use must be restricted to minimize soil compaction;

- 16) Topsoil must be preserved on the site;
  - 17) Discharges from BMPs must be directed to vegetated areas unless infeasible;
  - 18) A 50-foot natural buffer must be preserved or, if a buffer is infeasible on the site, redundant (double) perimeter sediment controls must be provided when a surface water is located within 50 feet of the project's earth disturbances and stormwater flows to the surface water;
    - a) Permittees must install perimeter sediment controls at least 5 feet apart unless limited by lack of available space;
    - b) Natural buffers are not required adjacent to road ditches, judicial ditches, county ditches, stormwater conveyance channels, storm drain inlets, and sediment basins;
    - c) If preserving the buffer is infeasible, the reasons must be documented in the site plan;
    - d) Sheet piling is a redundant perimeter control if installed in a manner that retains all Stormwater.
  - 19) An undisturbed buffer zone of not less than 100 linear feet must be included on a project that is within one mile (aerial radius measurement) of, and flows to "other special waters", "prohibited waters", and/or "restricted waters" as defined;
    - a) The buffer zone must be maintained at all times, both during construction and as a permanent feature post construction, except where a water crossing or other encroachment is necessary to complete the project;
    - b) If buffer encroachment is necessary, the circumstance, reasons, and restoration activities must be fully documented in the site plan;
    - c) All potential water quality, scenic and other environmental impacts of the encroachments must be minimized by the use of additional or redundant (double) BMPs. Additional or redundant BMPs must be documented in the site plan.
  - 20) Polymers, flocculants, or other sedimentation treatment chemicals must be used in accordance with accepted engineering practices, dosing specifications and sediment removal design specifications provided by the manufacturer or supplier.
  - 21) Conventional erosion and sediment controls must be used prior to chemical addition and must direct treated stormwater to a sediment control system for filtration or settlement of the floc prior to discharge.
- iii. Dewatering and Basin Draining
- 1) Turbid or sediment-laden waters related to dewatering or basin draining (e.g., pumped discharges, trench/ditch cuts for drainage) must be

discharged to a temporary or permanent sediment basin on the project site unless infeasible;

- 2) Dewatering to surface waters may be conducted if visual checks are completed to ensure adequate treatment has been obtained and nuisance conditions (see Minn. R. 7050.0210, subp. 2) will not result from the discharge;
- 3) If turbid or sediment-laden water cannot be discharged to a sedimentation basin prior to entering a surface water, the discharge must be treated with appropriate BMPs such that the discharge does not adversely affect the surface water or downstream properties;
- 4) An oil-water separator or suitable filtration device (e.g., cartridge filters, absorbents pads) must be used prior to discharge of water containing oil or grease;
- 5) Water from dewatering or basin-draining activities must be discharged in a manner that does not cause erosion or scour in the immediate vicinity of discharge points
- 5) Dewatering or basin-draining activities cannot cause inundation of wetlands that causes significant adverse impact to the wetland in the immediate vicinity of discharge points.
- 7) If filters with backwash water are used, all backwash must be hauled away for disposal, returned to the beginning of the treatment process, or incorporated into the site in a manner that does not cause erosion.

#### iv. Inspection and Maintenance

- 1) A trained person, employed, contracted, or otherwise retained by the Owner/Operator, must inspect the entire construction site at least once every seven (7) days during active construction, or every three (3) calendar days on a project that is within one mile (aerial radius measurement) of, and flows to a "prohibited waters" as defined, and within 24 hours after a rainfall event greater than 1/2 inch in 24 hours;
- 2) All permanent stormwater treatment BMPs must be inspected and maintained;
- 3) All erosion prevention and sediment control BMPs and Pollution Prevention Management Measures must be inspected to ensure integrity and effectiveness.
- 4) All nonfunctional BMPs must be repaired, replaced, or supplemented with functional BMPs by the end of the next business day after discovery unless another time frame is specified below. Additional time, if field conditions prevent access to the area, may be taken;
- 5) Surface waters, including drainage ditches and conveyance systems, but not curb and gutter systems, must be inspected for evidence of erosion and sediment deposition.

- a) All deltas and sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems must be removed;
  - b) All areas where sediment removal resulted in exposed soils must be restabilized. Removal and stabilization must be completed within seven (7) calendar days of discovery unless precluded by legal, regulatory, or physical access constraints;
  - c) All reasonable efforts to obtain access must be used;
  - d) If precluded, removal and stabilization must take place within seven (7) days of obtaining access; and
  - e) Contact all local, regional, state and federal authorities and receive any applicable permits, prior to conducting any work in surface waters;
- 6) Construction site vehicle exit locations, streets and curb and gutter systems within and adjacent to the project must be inspected for sedimentation from erosion or tracked sediment from vehicles.
    - a) Sediment must be removed from all paved surfaces within one (1) calendar day of discovery or, if applicable, within a shorter time to avoid a safety hazard to users of public streets;
  - 7) Perimeter control devices must be repaired, replaced, or supplemented when they become nonfunctional or the sediment reaches 1/2 of the height of the device;
  - 8) Temporary and permanent sedimentation basins must be drained and sediment removed when the depth of sediment collected in the basin reaches 1/2 the storage volume;
  - 9) At least one individual present on the site (or available to the project site in three (3) calendar days) must be trained in the job duties of overseeing the implementation of, revising and/or amending the site plans and performing inspections for the project;
  - 10) Inspection schedules may be adjusted as follows:
    - a) inspections of areas with permanent cover can be reduced to once per month, even if construction activity continues on other portions of the site; or
    - b) where sites have permanent cover on all exposed soil and no construction activity is occurring anywhere on the site, inspections can be reduced to once per month and, after 12 months, may be suspended completely until construction activity resumes. The Town Representative may require inspections to resume if conditions warrant; or
    - c) where construction activity has been suspended due to frozen ground conditions, inspections may be suspended. Inspections must

resume within 24 hours of runoff occurring, or upon resuming construction, whichever comes first.

- 11) Inspections and maintenance activities must be recorded within 24 hours of being conducted and these records must be retained with the site plan by the Owner/Operator. These records must include:
    - a) date and time of inspections;
    - b) name of person(s) conducting inspections;
    - c) accurate findings of inspections, including the specific location where corrective actions are needed;
    - d) corrective actions taken (including dates, times, and party completing maintenance activities);
    - e) date of all rainfall events greater than 1/2 inches in 24 hours, and the amount of rainfall for each event. Rainfall amounts must be obtained by either a properly maintained rain gauge installed onsite, a weather station that is within one (1) mile of the site's location, or a weather reporting system that provides site specific rainfall data from radar summaries;
    - f) Observed discharges must be recorded, Discharges should be photographed and the location of the discharge described (i.e., color, odor, settled or suspended solids, oil sheen, and other obvious indicators of pollutants); and
    - g) any amendments to the site plan proposed as a result of the inspection must be documented within seven (7) calendar days
- v. Pollution Prevention Management Measures
- 1) Building products and landscape materials must be placed under cover (e.g., plastic sheeting or temporary roofs) or protected by similarly effective means as designed to minimize contact with Stormwater;
  - 2) Products which are either not a source of contamination to Stormwater or designed to be exposed to Stormwater are not required to be covered or protected;
  - 3) Pesticides, herbicides, fertilizers and treatment chemicals must be placed under cover (e.g., plastic sheeting or temporary roofs) or protected by similarly effective means designed to minimize contact with Stormwater;
  - 4) Hazardous materials and toxic waste (including oil, diesel fuel, gasoline, hydraulic fluids, paint solvents, petroleum-based products, wood preservatives, additives, curing compounds, and acids) must be stored in sealed containers to prevent spills, leaks or other discharge;
  - 5) Hazardous materials must be stored and disposed of in accordance with Minn. R. ch. 7045;

- 6) Solid waste must be stored, collected, and disposed of in accordance with Minn. R. ch. 7035;
- 7) Portable toilets must be positioned so that they are secure and will not tip or be knocked over.
- 8) Sanitary waste from the portable toilets must be properly disposed in accordance with Minn. R. ch. 7041;
- 9) Reasonable steps must be taken to prevent the discharge of spilled or leaked chemicals, including fuel, from any area where chemicals or fuel will be loaded or unloaded including the use of drip pans or absorbents unless infeasible;
  - a) Adequate supplies must be available at all times to clean up discharged materials and an appropriate disposal method must be available for recovered spilled materials;
  - b) Spills must be immediately reported and cleaned up as required by Minn. Stat. Sect. 115.061, using dry clean up measures where possible.
- 10) Limit vehicle exterior washing and equipment to a defined area of the site.
  - a) Runoff from the washing area must be contained in a sediment basin or other similarly effective controls;
  - b) Waste from the washing activity must be disposed of properly;
  - c) Soaps, detergents, and solvents must be properly used and stored.
- 11) Liquid and solid wastes generated by washout operations (e.g. concrete, stucco, paint, form release oils, curing compounds and other construction materials) related to the construction activity must be contained and not contact the ground. A sign, indicating the location of a washout facility, must be installed.

vi. Termination Conditions

- 1) All construction activity must be completed and permanent cover must be installed over all areas;
  - a) Permanent cover must consist of a uniform perennial vegetation with a density of 70 percent of its expected final growth;
  - b) Vegetation is not required where the function of a specific area dictates no vegetation, such as impervious surfaces or the base of a sand filter.
- 2) Permanent stormwater treatment system must be cleaned of any accumulated sediment;
  - a) The system must meet all applicable requirements and operate as designed.

- 3) Sediment must be removed from conveyance system(s);
- 4) Temporary synthetic erosion prevention and sediment control BMPs must be removed. BMPs designed to decompose on-site may be left in place;
- 5) *For residential construction only*, permit coverage may be terminated on individual lots if:
  - a) The structure(s) are finished;
  - b) Temporary erosion prevention and downgradient perimeter controls are complete; and
  - c) The residence is sold to the homeowner.
- 6) *For construction projects on agricultural land* (e.g., pipelines across cropland), the disturbed land must be returned to its preconstruction agricultural use.

**d. Design Criteria for Temporary Sediment Basins**

- i. Where 10 or more acres of disturbed soil drain to a common location or where 5 or more acres of undisturbed soil drain to a common location on the project that is within one mile (aerial radius measurement) of an "impaired waters", "other special waters", "prohibited waters", and/or "restricted waters" as defined, the applicant must provide a basin to provide treatment of the runoff before it leaves the construction site or enters surface waters.
- ii. Temporary sediment basins may be converted to a permanent basin after construction is complete.
- iii. Temporary basins may be removed when permanent cover has reduced the acreage of disturbed soils to less than 10 (or 5 when applicable) acres draining to a common location.
- iv. Must provide live storage for a calculated volume of runoff from a two (2) year, 24 hour storm from each acre drained to the basin, except that in no case shall the basin provide less than 1,800 cubic feet of live storage per acre drained to the basin.
- v. Where the two (2)-year, 24-hour storm runoff amount is not calculated, the temporary sediment basin must provide 3,600 cubic feet of live storage per acre of the basins' drainage area.
- vi. Outlets must be designed to prevent short-circuiting and the discharge of floating debris.
- vii. The outlet structure must be designed to withdraw water from the surface to minimize the discharge of pollutants. The use of a surface withdrawal mechanism may be temporarily suspended during frozen conditions. The basin must include a stabilized emergency overflow to prevent failure of pond integrity.